

*CO. exp. 11*  
*- Martin*

*Raymond*  
*Reed*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

JANET C. MANGINI, On Behalf of The )

General Public, ) Case No. 939359

Plaintiff, ) Pages 1 - 218

vs. )

R. J. REYNOLDS TOBACCO COMPANY, ) CONFIDENTIAL

et al. ) RECORD

Defendants. )

**CONFIDENTIAL**

**CERTIFIED COPY**

CONFIDENTIAL DEPOSITION OF:

MARVIN RAY MARTIN

TUESDAY, DECEMBER 19, 1995

10:05 A.M.

Reported by:

BRENDA S. LAMM

Court Reporter

**TEARNEY & TEARNEY**

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51848 3192

C O F I D E N T I A L

1 Confidential Deposition of MARVIN RAY MARTIN, the  
2 witness, taken on behalf of the Plaintiffs, on TUESDAY,  
3 DECEMBER 19, 1995, 10:05 A.M., at the offices of  
4 Womble, Carlyle, Sandridge & Rice, 1100 BB&T Financial  
5 Center, 200 West Second Street, Winston-Salem, North  
6 Carolina 27101, before BRENDA S. LAMM, Court Reporter  
7 and Notary Public.

8  
9  
10  
11  
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C O N F I D E N T I A L  
I N D E X

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22	5	135	Document entitled RJRT Customer
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23			Account Management
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24	6	139	Document entitled 1992 Work Plan,
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25			Account Specific Marketing
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3			Account Specific Marketing, Second
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WINSTON-SALEM, NORTH CAROLINA; DECEMBER 19, 1995

10:05 A.M.

MS. BIXENSTINE: Frank, at the outset, I'd like to say that the information and systems covered by the deposition notice served by the plaintiff in this case and the testimony that I expect Mr. Martin to give is proprietary and confidential to R. J. Reynolds Tobacco Company, and I would therefore like to designate the entire transcript as confidential pursuant to the stipulated protective order and all of the exhibits.

MR. JANECEK: All right.

MARVIN RAY MARTIN,  
having been duly sworn,  
was examined and testified as  
follows:

## EXAMINATION

BY MR. JANECEK:

Q. Mr. Martin, could you state your full name for the court reporter?

A. Marvin Ray Martin.

1 Q. Mr. Martin, I'm going to give you what I  
2 will have the court reporter mark as Exhibit 1 to the  
3 deposition which is the notice of deposition. Have you  
4 seen a copy of this?

5 A. Yes, I have.

6 (The documents referred to were  
7 marked as Plaintiff's Exhibit 1 for  
8 identification, and attached to and made a  
9 part of this deposition.)

10 Q. Before we get started, I want to go over a  
11 couple of ground rules. Have you talked to your  
12 attorneys about what a deposition is and what you can  
13 expect today?

14 A. In general terms, yes.

15 Q. Let me just go over a couple of things.  
16 The court reporter is taking down everything that's  
17 said in the room, whether it's from myself, yourself,  
18 or anyone that speaks. She will type up when we get  
19 done in booklet form what's transpired today.

20 You'll have a chance to review that  
21 booklet which is called a transcript to ensure its  
22 accuracy, make any changes that you want to or you feel  
23 necessary, and give back to the plaintiff's counsel in  
24 this case.

25 Anyone in the action -- plaintiff,

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1 defendant, any other defendant -- can use the  
2 deposition as if you were testifying in a court of law.  
3 Do you understand that?

4 A. Yes, I do.

5 Q. Mr. Martin, is there any reason why you  
6 couldn't give truthful testimony today?

7 A. Not to my knowledge, no.

8 Q. You're not under any prescription or  
9 nonprescription drugs that would affect your ability to  
10 truthfully testify?

11 A. No, I'm not.

12 Q. Please listen to my question and wait  
13 until I get finished before you answer. It makes it  
14 difficult for the court reporter to take down if both  
15 of us are speaking, and I'll try to do the same for  
16 you.

17 If you have any questions or you don't  
18 understand my question, please let me know, and I'll  
19 try to rephrase it. If you need to take a break at any  
20 time, let me know, and we can adjourn to take that  
21 break.

22 Mr. Martin, what's your title at Reynolds?

23 A. I am vice president of information  
24 resources.

25 Q. And is that for R. J. Reynolds Tobacco

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1 Company?

2 A. For R. J. Reynolds Tobacco Company.

3 Q. Mr. Martin, Exhibit B to the -- or  
4 Schedule B to the deposition notice identifies certain  
5 exemplars of documents that Reynolds would normally  
6 keep. Did you bring any such exemplars with you today?

7 A. Yes, I did.

8 MS. BIXENSTINE: Do you want them now?

9 MR. JANECEK: Yes. I'll take a look.

10 (Counsel review documents.)

11 MR. JANECEK: We'll get back to the  
12 documents.

13 MS. BIXENSTINE: We went ahead and made  
14 four copies or so of each.

15 BY MR. JANECEK:

16 Q. Perhaps I should just do this in order. I  
17 have briefly scanned the types of documents that have  
18 been produced. With respect to Subdivision A on  
19 Schedule B, the identity and location of retail stores,  
20 were you able to find any exemplars that would satisfy  
21 that category?

22 A. Yes, I did.

23 Q. Which of the documents that your counsel  
24 handed me would be exemplars of the retail stores?

25 MS. BIXENSTINE: Frank, we've noted which

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1 item in Schedule B each of these is responsive to.

2 MR. JANECEK: I got you.

3 MS. BIXENSTINE: I should note that what  
4 we've produced in response to Schedule B(1)(e) are also  
5 responsive to B(1)(h), and I think what is responsive  
6 to B(1)(i) are also responsive to B(1)(j).

7 Q. If I've read your notations correctly, Mr.  
8 Martin, are there any documents you could locate  
9 responsive to B(1)(b), locations of billboards?

10 A. In my area, there is no documents that we  
11 could locate.

12 Q. What do you mean by your area?

13 A. My area is the information resources area  
14 that supports the computer systems for the business and  
15 the manufacturing arena.

16 Q. What about sub (c), the identification of  
17 publications?

18 A. We had no exemplars for the identification  
19 of publications.

20 MS. BIXENSTINE: That run or ran Joe Camel  
21 advertisements.

22 THE WITNESS: Right.

23 Q. What about (f)? That's market research  
24 connected with Camel cigarettes.

25 A. Again, there were no exemplars with regard

1 to my area of accountability for the (f), I believe it  
2 is, that you referred to.

3 Q. And is that the same with (g), the market  
4 research conducted with the youth market?

5 A. That's true.

6 Q. When you say that you found no documents  
7 in your area, is it your testimony that Reynolds  
8 doesn't maintain these types of documents or just that  
9 your department doesn't maintain these types of  
10 documents?

11 A. I would not know all the documents that  
12 would be maintained, and with regard to -- I have no  
13 knowledge of, personal knowledge, of such documents.

14 Q. I understand you may not have personal  
15 knowledge, but in discovery, it's a little broader, and  
16 if you know or you've heard that such documents exist,  
17 that would be -- I'm entitled to know that. I'm just  
18 throwing that out there.

19 A. Right.

20 Q. So please don't limit your responses to  
21 your personal knowledge, quote, unquote, if I ask you a  
22 question.

23 A. Right.

24 Q. Mr. Martin, I'm trying to understand the  
25 division. Could you describe what information

1 resources is? Is it a department or a division or?

2 A. Information resources is the department  
3 that has the accountability to do the design and  
4 implementation of computer related systems that support  
5 the company's business operation for both the business  
6 side, as R. J. refers to it, and the manufacturing  
7 arena.

8 Q. So would you term information resources a  
9 department or a division?

10 MS. BIXENSTINE: Objection. Asked and  
11 answered. You may answer.

12 A. Information resources -- repeat the  
13 question, please. I'm sorry.

14 Q. Is information resources a department of  
15 R. J. Reynolds Tobacco Company?

16 MS. BIXENSTINE: Objection. Asked and  
17 answered. You may answer.

18 A. Information resources is a department of  
19 R. J. Reynolds Tobacco Company.

20 Q. In designing and implementing computer  
21 systems, would that be solely limited to the  
22 information resources department or would that overlap  
23 with other divisions or departments of R. J. Reynolds?

24 MS. BIXENSTINE: Objection to the form of  
25 the question. It's vague. If you understand it, you



1 can answer it.

2 A. Please clarify.

3 Q. Sure. What I'm trying to find out, Mr.  
4 Martin, is if information resources, your  
5 accountability as you termed it, would involve  
6 designing and implementing computer systems for other  
7 departments of Reynolds -- the marketing department,  
8 sales department, manufacturing department, whatever  
9 other departments there would be -- or if it's solely  
10 limited to the information resources department?

11 MS. BIXENSTINE: Objection. Asked and  
12 answered. You may answer.

13 A. We do support the business operations of  
14 the major functional areas within R. J. Reynolds  
15 Tobacco Company.

16 Q. Mr. Martin, I want to revisit your  
17 background. You're currently the vice president of  
18 information resources; is that correct?

19 A. For R. J. Reynolds Tobacco Company.

20 Q. How long have you been the vice president  
21 of information resources?

22 A. Since 1987.

23 Q. And prior to 1987, were you still in the  
24 information resources division?

25 MS. BIXENSTINE: Department.

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1 Q. Or department? I'm sorry.

2 A. Yes, I was.

3 Q. What was your title if you had one prior  
4 to 1987?

5 A. My title prior --

6 MS. BIXENSTINE: Objection. Could you  
7 specify the time frame? Immediately prior?

8 MR. JANECEK: Yes. I'm trying to go  
9 chronologically.

10 MS. BIXENSTINE: Backwards?

11 MR. JANECEK: Backwards, yes.

12 A. My title prior to being vice president was  
13 manager of manufacturing systems.

14 Q. As a manager of manufacturing systems,  
15 were you in the information resources department?

16 MS. BIXENSTINE: Objection. Asked and  
17 answered. You may answer.

18 A. Yes, I was.

19 Q. And what were your duties as a manager of  
20 manufacturing systems?

21 A. Those duties were oriented toward doing  
22 the design and implementation of systems that  
23 specifically were oriented toward the manufacturing and  
24 operational area.

25 Q. And how long were you a manager of

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1 manufacturing systems?

2 A. Approximately three years, I believe.

3 Q. Immediately prior to becoming a manager of  
4 manufacturing systems, were you still employed in the  
5 information resources department?

6 A. No, I was not.

7 Q. Were you employed with Reynolds?

8 A. Yes, I was.

9 MS. BIXENSTINE: Just so the record is  
10 clear, by Reynolds, we mean R. J. Reynolds Tobacco  
11 Company?

12 MR. JANECEK: That's correct.

13 Q. What was your status immediately prior to  
14 being the manager of manufacturing systems?

15 A. I was part of an area that was responsible  
16 for the design and implementation of a facilities  
17 development program that was oriented toward upgrading  
18 the manufacturing facilities of both construction and  
19 renovation.

20 Q. When you say design of a facilities  
21 program, is that a computer program?

22 A. No, it is not.

23 Q. Mr. Martin, could you state your  
24 educational background for me starting with high  
25 school?

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1           A.       I graduated from Borden High School in  
2       Salisbury, North Carolina and then attended and  
3       graduated from North Carolina State University with a  
4       B.S. Degree in Manufacturing and Engineering.

5           Q.       Did you have any graduate work?

6           A.       I took in the course graduate courses but  
7       not a graduate degree.

8           Q.       Have you taken any computer courses?

9           A.       Yes, I have.

10          Q.       Did you obtain any sort of computer degree  
11       or a degree in Computer Sciences or computer related  
12       fields?

13          A.       No, I did not.

14          Q.       What types of courses did you take? Was  
15       this during college or was this since becoming an  
16       information resources individual?

17               MS. BIXENSTINE: Objection to the form of  
18       the question. Are you talking about what courses did  
19       he take when he was in college related to computer  
20       science or after college? I'm confused about the time  
21       frame.

22               MR. JANECEK: I'm just trying to get an  
23       overview of his educational background with respect to  
24       computers now.

25               MS. BIXENSTINE: Object to form of the

1 question as being vague. If you understand it, you can  
2 answer it.

3 A. I do not understand.

4 Q. Did you take any computer courses in  
5 college?

6 A. Yes, I did.

7 Q. What types of courses?

8 A. There were courses on programming skills  
9 and on the use of computers, general courses of  
10 computer related. . .

11 Q. Was this in connection with your  
12 Manufacturing and Engineering Degree?

13 A. The actual degree is called Engineering  
14 Operations. It's in the field of manufacturing  
15 engineering.

16 Q. Were the computer courses you took in  
17 college associated with obtaining your Engineering  
18 Operations Degree?

19 A. Yes, they were.

20 Q. Since joining the information resources  
21 department, have you taken any computer courses?

22 A. Yes, I have.

23 Q. What types of courses have you taken since  
24 joining the information resources department?

25 A. There are several different types, and

1 they are from the general knowledge about equipment and  
2 overviews to some specific courses with regard to  
3 programming of certain languages.

4 Q. Mr. Martin, is there anyone at Reynolds  
5 that is more knowledgeable about the topics that are  
6 noted on Schedule A of the notice of deposition?

7 A. From the standpoint of overall knowledge,  
8 I feel that I have the most knowledge about all the  
9 subjects.

10 MS. BIXENSTINE: Frank, let me say for the  
11 record that it was our judgment that Mr. Martin was the  
12 most knowledgeable person about the most subjects, but  
13 there may be some people at Reynolds who are more  
14 knowledgeable about specific items, but he is overall  
15 the most knowledgeable

16 MR. JANECEK: Okay.

17 Q. Mr. Martin, could you describe for me the  
18 types of computer systems used by Reynolds in the  
19 course of business?

20 A. R. J. Reynolds Tobacco Company uses a  
21 multi-vendor mainframe midrange and LAN based and  
22 personal PC based computer environment to support the  
23 business operations and the manufacturing arena.

24 Q. What types of operating systems are used?

25 A. Depending on the environment, that becomes

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1 a complex issue. The mainframe environment utilizes  
2 the IBM operating system, MVS. The digital equipment  
3 environment utilizes the digital equipment operating  
4 system VMS. The LAN based technology utilize Windows  
5 based operating systems including Windows NT. And the  
6 network environment utilizes systems that vary from the  
7 standpoint of different protocols required to support  
8 them such as a Novell environment as well as an NT  
9 environment.

10 Q. What about workstation types, are they IBM  
11 based?

12 MS. BIXENSTINE: Objection to the form of  
13 the question. Are you talking about the individual  
14 personal computers?

15 MR. JANECEK: Right.

16 A. Again, that's a complex issue because of  
17 the different vendors. We are a multi-vendors. The  
18 majority of the personal computers are IBM compatible.  
19 We do use other vendors and other systems such as a  
20 Wang as an example.

21 Q. What about Apple?

22 A. We do utilize Apple.

23 Q. Sun Computers?

24 A. Yes, there is a Sun Computer.

25 Q. When you say there's a Sun, is Sun not a

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1 major portion of the computer systems used by Reynolds?

2 A. Sun is not a major portion.

3 Q. Someone just happens to have one?

4 A. We have a lot of different -- that's the  
5 reason I said multi-vendor units, and I am aware that a  
6 Sun does exist.

7 Q. Okay. Generally, what types of software  
8 does Reynolds use?

9 A. I'm sorry. I don't --

10 Q. Do you use word processing on your  
11 computers?

12 A. Yes, we do.

13 Q. What about spread sheet programs?

14 A. Yes, we do.

15 Q. Telecommunication programs?

16 A. (No response.)

17 Q. Telecommunications?

18 A. That's a complex -- I don't --

19 Q. Voice mail or --

20 A. Yes, we do use voice mail.

21 Q. Computer programs to run the switchboard?

22 A. We have a switchboard, but embodied in  
23 that equipment would be software programs to make  
24 connections.

25 Q. What about database management programs?

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1 Risk analysis?

2 MS. BIXENSTINE: Objection to the form of  
3 the question.

4 Q. Do you understand my question?

5 A. No.

6 Q. We're still talking about the types of  
7 software used by Reynolds on its computers, and I'm  
8 asking whether Reynolds uses database management  
9 program for markets, risk analysis, etc.?

10 A. We do use database programs in management  
11 programs.

12 Q. Are those specific to the department that  
13 are involved or does everyone use the same programs?

14 A. One of our accountabilities of information  
15 resources is to provide some general standards for  
16 compatibility. The database programs that we recommend  
17 are really DB2 and Adabase.

18 Q. Can you spell Adabase for the court  
19 reporter and myself?

20 A. A-D-A-B-A-S-E.

21 Q. What about electronic mail?

22 A. Electronic mail is Microsoft Mail  
23 predominantly.

24 MS. BIXENSTINE: You're talking about the  
25 current time frame?

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21

1 MR. JANECEK: Right.

2 A. There are several mail systems. The  
3 predominant is Microsoft Mail, and the other is  
4 All-In-One Mail.

5 Q. Do you provide calendar and scheduling  
6 programs?

7 MS. BIXENSTINE: Objection to the form of  
8 the question. Do you mean the information resources  
9 department?

10 MR. JANECEK: That's correct

11 MS. BIXENSTINE: Currently?

12 MR. JANECEK: That's correct.

13 A. There is scheduling software that is  
14 available and is utilized, but not necessarily everyone  
15 has access to that.

16 Q. Who wouldn't have access to that software?

17 A. Generally, people who would utilize for  
18 their connectivity a device we refer to as a dumb  
19 terminal. It is not a PC or personal or professional  
20 computer. It is a terminal that provides access.

21 Q. And would the calendaring or scheduling  
22 software be available to the dumb terminals?

23 A. No, they would not.

24 Q. Okay.

25 A. Excuse me. They would not be available to

51848 3213

1 all of those. If it was a mainframe based scheduling  
2 system, then that dumb terminal could access those.

3 Q. Does that mean that Reynolds has more than  
4 one mainframe that it uses?

5 A. From my classification or R. J. Reynolds  
6 Tobacco Company's classification, we have a single  
7 mainframe computer.

8 Q. And with respect to Reynolds, then are  
9 there dumb terminals that are not connected to that  
10 mainframe? Is that what you were telling me?

11 A. Yes, there are.

12 Q. What systems would the dumb terminals that  
13 don't have access to calendaring and scheduling, what  
14 systems would they be connected with?

15 A. Some of those would be connected to the  
16 manufacturing environment which is the digital and the  
17 midrange environment as opposed to mainframe  
18 environment.

19 Q. Does Reynolds use encryption software?

20 A. R. J. Reynolds Tobacco has utilized  
21 encryption software.

22 Q. What type?

23 A. I'm sorry, I do not recall the type.

24 Q. Currently, does it use encryption  
25 software?

1 A. Only associated with fax machines.

2 Q. Vax or fax?

3 A. Fax.

4 Q. V-A-X?

5 A. No. F-A-X.

6 Q. Fax machines. Okay. What about utility  
7 programs?

8 A. I'm sorry. You'll have to --

9 Q. Does Reynolds use utility programs?  
10 Norton? I can't think of other ones. There's some  
11 other utility programs.

12 A. We do utilize Norton.

13 Q. Okay. Are you aware of any other types of  
14 utility programs used on Reynolds systems?

15 MS. BIXENSTINE: If you understand the  
16 question, you can answer.

17 A. There are other what in our department we  
18 would classify as utility programs to assist in data  
19 management and movement. The exact names of those, I  
20 don't recall.

21 Q. Are they commercially available software  
22 or are they Reynolds designed software?

23 A. They're a combination of those two.

24 Q. Does Reynolds use any project management  
25 software like critical-path type software?

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1           A.       We do utilize project management software  
2       that is a purchased package such as a Microsoft Project  
3       and project management software that is oriented toward  
4       specific areas such as engineering.

5           Q.       Besides engineering, can you think of any  
6       other areas where project management software is  
7       utilized?

8           A.       Since the project management software is  
9       such as Microsoft Project, other areas do have access  
10      and can utilize that tool. It is on our LAN which is  
11      available to most of R. J. Reynolds' departments.

12          Q.       Can you think of any other types of  
13      software programs which we haven't already gone over  
14      that Reynolds uses?

15          A.       That is a very complex question because of  
16      the size of the support structure, the infrastructure,  
17      that is in place for Reynolds.

18                 As I mentioned, we support all of the  
19      major departments conducting business, so there is a  
20      list of different software that is utilized. I could  
21      not name those, but the majors are from the office  
22      automation support and to generally support the  
23      business.

24          Q.       Can you give me a couple of examples?

25                 MS. BIXENSTINE: Objection to the form of

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25

1 the question. You may answer.

2 A. Could you clarify examples?

3 Q. What do you mean by office automation  
4 support?

5 A. Referring to such things that you  
6 referenced earlier as word processing packages that  
7 would allow the automation or creation of memos or  
8 spread sheets.

9 Q. I was more looking at different types of  
10 software other than those that we had discussed. The  
11 office automation sounds like we hit on in the word  
12 processing aspects of the computer system. I'm trying  
13 to find out if you know of any other categories of  
14 software used by Reynolds as opposed to the individual  
15 software programs?

16 MS. BIXENSTINE: Objection to the form of  
17 the question. You may answer if you understand.

18 A. I'm not sure what you mean by category.

19 Q. Okay. We just went through several  
20 categories: word processing, spread sheets,  
21 telecommunications programs, go through the list.

22 My question is other than the types of  
23 software programs that we've already discussed, are you  
24 aware of any other types of software utilized by  
25 Reynolds in its business?

1           A.       Again, I'm not sure I understand what you  
2       mean by types of software. There are software for  
3       different business purposes that are utilized. I'm not  
4       sure that's what you mean by type like the office  
5       support work or what I refer to as office automation.

6           Q.       We'll move on. Maybe it will show up  
7       somewhere else. Can you identify for me the persons  
8       responsible for the operation and maintenance of R. J.  
9       Reynolds' computer systems?

10          A.       The person responsible for the majority of  
11       the R. J. Reynolds computer systems is myself.

12          Q.       And I'm assuming that you have a staff to  
13       assist you in that responsibility; is that correct?

14          A.       Yes, I do.

15          Q.       Could you identify for me your staff along  
16       with any titles that they would have?

17                   MS. BIXENSTINE: You mean the people who  
18       report directly to him?

19                   MR. JANECEK: The people that Mr. Martin  
20       would use to --

21                   MS. BIXENSTINE: Do you want to know  
22       everybody in the whole I.R. department?

23          Q.       Let's start with the management level, if  
24       there is a management level. Who would be the first  
25       person that you would call on to address any problem

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1 associated with R. J. Reynolds' computer systems?

2 MS. BIXENSTINE: Objection to the form of  
3 the question. It depends on the problem.

4 Q. Is there any individual?

5 A. It does depend on the problem.

6 Q. Well, let's just identify for me everyone  
7 in the I.R. department, if that's what it's called --  
8 the I.R. department, information resources.

9 MS. BIXENSTINE: Do you want to know who  
10 the direct reports are? It's kind of a large  
11 department.

12 Q. I was trying to go from the top to the  
13 bottom. Who would directly be underneath you in the  
14 I.R. department? I understand there may be several  
15 people.

16 A. My direct reports are Tom Beasley, John  
17 Pierce, Kay Word.

18 Q. Is that Word, W-O-R-D?

19 A. W-O-R-D. Bill Clingman.

20 Q. Could you spell that one for me?

21 A. C-L-I-N-G-M-A-N. Mike Cassidy, Trent  
22 Tucker, Elizabeth Jenkins, David Butler. I believe  
23 that's all.

24 Q. Are all of these individuals that you've  
25 identified employed by Reynolds?

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- 1 A. R. J. Reynolds Tobacco?
- 2 Q. R. J. Reynolds Tobacco Company, yes.
- 3 A. Yes, they are.
- 4 Q. Do these individuals have defined areas of
- 5 responsibility within the I.R. department?
- 6 A. Yes, they do.
- 7 Q. What would Mr. Beasley's area of
- 8 responsibility be?
- 9 A. Mr. Beasley's area of responsibility is
- 10 technical support.
- 11 Q. What about John Pierce?
- 12 A. Mr. Pierce's area of responsibility is
- 13 customer information systems and marketing.
- 14 Q. What about Kay Word?
- 15 A. Ms. Word's area of responsibility is sales
- 16 systems.
- 17 Q. Bill Clingman?
- 18 A. Mr. Clingman's area is I.R. administrative
- 19 and financial services.
- 20 Q. Can you be more specific as to what Mr.
- 21 Clingman's responsibilities are?
- 22 A. Mr. Clingman is in charge of an
- 23 administrative area that supports information resources
- 24 with regard to our budgeting, the putting in place and
- 25 providing administrative functions for our multiple

1 departments within our major information resources  
2 area.

3 Q. What about Mike Cassidy?

4 A. Financial and leaf systems is the  
5 accountability of Mr. Cassidy and also packaging system  
6 for Mr. Cassidy as well.

7 Q. What about Trent Tucker?

8 A. Mr. Tucker is in charge of manufacturing  
9 systems.

10 Q. And Elizabeth Jenkins?

11 A. Elizabeth Jenkins is my administrative  
12 assistant.

13 Q. And what about David Butler?

14 A. Mr. Butler is in charge of the LAN and PC  
15 services.

16 Q. Would each of these individuals that  
17 you've identified be considered managers? Are they  
18 management level or is this the entire department?

19 A. Those individuals are the key managers who  
20 are my direct reports.

21 Q. And then I don't want to get into the  
22 individual's names, but about how many individuals are  
23 utilized by the I.R. department underneath these  
24 managers, the total number?

25 MS. BIXENSTINE: Objection to the form of

1 the question. Are you asking for the total number of  
2 employees in the information resources department  
3 including Mr. Martin and the managers who report to him  
4 or excluding?

5 MR. JANECEK: Excluding. It would just be  
6 the total number of employees that haven't been  
7 otherwise identified by Mr. Martin.

8 A. Approximately 400 employees comprise the  
9 information resources department for R. J. Reynolds.

10 Q. Can you categorize the different types of  
11 employees these 400 employees that there are?  
12 Programmers?

13 A. I'm not --

14 Q. I'm assuming that each of these 400  
15 employees or several of these 400 employees have  
16 different roles. Some are programmers. Some may be  
17 hardware people. Can you give me the types of  
18 employees or types of groups that Reynolds uses these  
19 employees?

20 A. The skill set of those employees are  
21 around programmers, analysts, technical specialists,  
22 computer operations, and administrative support. Each  
23 of those categories would have different levels of  
24 expertise.

25 Q. Does Reynolds use any outsource

1 facilities?

2 MS. BIXENSTINE: Objection to the form of  
3 the question.

4 Q. Do you understand my question?

5 A. No. I'm familiar with the term outsource.

6 Q. My question is -- well, let's back up a  
7 little bit. In the I.R. department, are you  
8 responsible for the ongoing operation, the maintenance,  
9 the expansion backup, the upkeep of the computer  
10 systems?

11 A. Yes, I am.

12 Q. Within those categories -- operation,  
13 maintenance, upkeep, expansion backup -- does Reynolds  
14 use any independent contractors or external outsources  
15 to facilitate any or all of those categories of your  
16 responsibility?

17 A. Yes, we do.

18 Q. What areas does -- and if you'd like me  
19 to, I can go individually -- but what types of areas  
20 does Reynolds use outsources as opposed to doing the  
21 work in-house?

22 A. Information resources utilizes third party  
23 providers of services and independent firms outside of  
24 R. J. Reynolds Tobacco Company to provide such services  
25 as technical support, programming, and business

1 requirements such as some planning functions or network  
2 design type functions. Did I mention maintenance?

3 Q. No, not yet.

4 A. Maintenance should be one of those. Those  
5 are the major ones that come to mind.

6 Q. What about backup, does Reynolds do its  
7 own backups or does it have someone come in and do  
8 those backups?

9 MS. BIXENSTINE: Objection to the form of  
10 the question. You can answer if you understand it.

11 A. I'm not sure I understand.

12 Q. Does Reynolds backup its computer systems,  
13 the information that's on its networks?

14 A. Yes, we do.

15 Q. Does Reynolds do that in-house or does it  
16 have third party providers of services come in and  
17 assist it with that aspect of the information systems?

18 A. We do that within our department, but it  
19 could involve some of the contractors that I referenced  
20 earlier in providing that and really accomplishing that  
21 task. It could involve the independent contractors  
22 from various firms.

23 Q. Does Reynolds keep its backup materials --  
24 its tapes or disks -- on-site or does it store them  
25 off-site?

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1           A.       We actually do both.

2           Q.       Does Reynolds keep two sets of backups?  
3       Is that what you mean by you do both?

4           A.       I was referring to your question do we do  
5       it on-site and off-site, and we do on-site and off-site  
6       storage of information of backups.

7           Q.       So Reynolds doesn't keep two sets of tapes  
8       in two locations; is that correct?

9           A.       (No response.)

10          Q.       Could you explain for me what you mean by  
11       Reynolds stores its backups both on-site and off-site?

12          A.       Backups are done for several reasons. One  
13       is operational recovery of what we would refer to as  
14       current information, and that would be the predominant  
15       group that we would refer to to be on-site, meaning  
16       physically in very close proximity to our data center  
17       or the appropriate data center in the case of  
18       manufacturing.

19                   Other information that would not be for  
20       current business operations would be historical type  
21       information that would be archived in an off-site  
22       location and also to support disaster recovery.

23          Q.       Mr. Martin, we've gone over the current  
24       general information systems at R. J. Reynolds. How  
25       long has that been in place at Reynolds?

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1 MS. BIXENSTINE: Objection to the form of  
2 the question. Everything that you've talked about?

3 MR. JANECEK: Right. With the personnel  
4 and the types of software and the types of computers  
5 used.

6 Q. When did the system that you've described  
7 to me to this point in the deposition -- when was that  
8 put in place?

9 MS. BIXENSTINE: So you're talking about  
10 how long have all those people been reporting to him  
11 and how long has --

12 MR. JANECEK: We can put aside --

13 MS. BIXENSTINE: I mean, I think maybe you  
14 should break it up.

15 Q. Putting aside the individuals responsible,  
16 when was the I.R. department formed?

17 A. I'm sorry, I don't recall. There has been  
18 an I.R. department since I've been employed. I do not  
19 know when it was formed. I do not recall.

20 Q. Earlier you testified about the types of  
21 hardware utilized by Reynolds: the LAN, the mainframes.  
22 When were those systems, the current systems, put in  
23 place?

24 A. The time frame varies from what currently  
25 I described, and it is driven a lot by changes in

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1 technology. Throughout the somewhat evolution of  
2 information technology, it is a constantly changing  
3 environment.

4 A general applicable statement when you're  
5 describing that as an example would be that technology  
6 from the information processing and general equipment  
7 has changed more in the last five years than it did in  
8 the previous 20. So it's an industry business driven  
9 environment that changes based on business  
10 requirements.

11 Q. Periodically -- if I understand you  
12 correctly, periodically Reynolds upgrades its systems?

13 A. That is correct.

14 Q. When would be in your opinion the last  
15 major upgrade -- not changing software or something --  
16 but adding a mainframe or adding a LAN system or adding  
17 a component to the information systems?

18 MS. BIXENSTINE: Objection to the form of  
19 the question. Are you assuming that changes have only  
20 been adding systems?

21 Q. Or deleting. What I'm trying to get is  
22 the major upgrades or major changes in the information  
23 systems of Reynolds going chronologically from the  
24 current one?

25 A. That's a very complex question because the



1 environment is constantly changing. Adding a device or  
2 changing a PC does change the environment from one  
3 point in time to another. The mainframes have been  
4 changed and upgraded and downsized in both directions  
5 based on business requirements.

6 Q. Since you've been employed, has Reynolds  
7 always had a mainframe?

8 A. Yes, they have.

9 Q. Has it always been this mainframe?

10 A. Meaning?

11 Q. Meaning -- who manufactured the current  
12 Reynolds mainframe?

13 A. IBM.

14 Q. Has this IBM mainframe always been in  
15 existence since you've been employed with the I.R.  
16 department?

17 A. The current IBM mainframe has not always  
18 been the same IBM mainframe.

19 Q. When was the current IBM mainframe put in  
20 place at Reynolds?

21 A. In November of this year.

22 Q. Of this year, 1995?

23 A. Of 1995.

24 Q. Prior to November of 1995, what type of  
25 mainframe did Reynolds use?

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1 A. An IBM.

2 Q. Why did Reynolds change its IBM mainframe  
3 in November of '95?

4 A. The driver of that was business  
5 requirements and is what we in the I.R. refer to as  
6 capacity planning, and that's what dictates changes in  
7 the total capability of your computing arena. The  
8 predecessor to that IBM that's currently installed was  
9 a smaller IBM computer.

10 Q. The predecessor mainframe, was that in  
11 existence since you joined the I.R. department?

12 A. No, it was not.

13 Q. When did that main -- when did the  
14 predecessor mainframe become installed?

15 A. To the best of my knowledge, it was  
16 approximately 12 months prior to the 1994 date.

17 Q. And, again, was that a function of  
18 requiring a larger mainframe?

19 MS. BIXENSTINE: By larger, you mean in  
20 terms of capacity?

21 Q. The way that you had described the current  
22 mainframe as being larger than the last mainframe.

23 A. Yes. To the best of my knowledge, it was  
24 a capacity increase.

25 Q. Were these changes in the mainframes

1 driven by a need to do additional functions with  
2 Reynolds computer resources?

3 MS. BIXENSTINE: Objection to the form of  
4 the question.

5 A. I'm not --

6 Q. Did Reynolds need larger mainframes to  
7 process more information or because it was adding some  
8 sort of system to its overall computer system?

9 MS. BIXENSTINE: Objection to the form of  
10 the question. You can answer if you understand it.

11 A. The predominant driver for changing the  
12 mainframe or computer environment changes themselves  
13 are for functionality, efficiency, or cost; and it  
14 depends on the period of time because I had stated  
15 earlier it's somewhat of a constant process that  
16 information resources reviews the business requirements  
17 and tries to match those with the install capacity to  
18 make sure that the utilizers, the users, of the systems  
19 to support business functions get the appropriate  
20 response at the appropriate cost with regard to timing  
21 and from the sheer volume of transactions because the  
22 applications do change that support the business.

23 Q. What about the LAN, has Reynolds always  
24 had a LAN system since you've been employed by the I.R.  
25 department?

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1 A. No, we have not.

2 Q. When did Reynolds first install a LAN  
3 system?

4 A. Could you clarify LAN for me?

5 Q. The LAN area network. When did Reynolds  
6 go to a network system?

7 A. Reynolds has always been networked with  
8 regard to a local area network, and that is a  
9 relatively recent occurrence, again, because of the  
10 advances in technology.

11 Q. And when did Reynolds first install its  
12 first LAN?

13 A. I really -- I don't recall the first  
14 installation of the LAN.

15 Q. Do you know approximately was it this  
16 year?

17 A. No. I'm sure that it was -- the first LAN  
18 was several years ago. There has been a recent  
19 increase in providing LAN services to users, and that  
20 has been focused on in the last two years.

21 Q. What about digital equipment, when did  
22 Reynolds first start using digital equipment?

23 A. The digital equipment started building in  
24 the early -- early '80s began some of the installations  
25 and continued from that point.

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1 Q. Has that mainframe system always used MVS?

2 A. I'm sure that it has not. Again,  
3 operating systems do change over the period of time as  
4 well. Exactly all the -- all the operating systems  
5 that R. J. Reynolds Tobacco Company has ever utilized,  
6 I do not -- I do not --

7 Q. How long has it used MVS to your  
8 knowledge?

9 A. To the best of my recollection, it has  
10 been for at least since 1987 and could potentially be  
11 prior to that.

12 MS. BIXENSTINE: Frank, I'm trying to be  
13 patient here, but Mr. Martin is a very senior person at  
14 Reynolds, and we were making him available for the  
15 entire day, but we've spent about an hour and 25  
16 minutes or an hour and 20 minutes on general background  
17 information which I am hard-pressed to understand how  
18 it's relevant to the Mangini case.

19 You can use your time how you want, but I  
20 just want you to know that I'm going to resist  
21 producing Mr. Martin for any days beyond today, and so  
22 I urge you to move along and get to other items on your  
23 deposition notice.

24 MR. JANECEK: As I'm sure you're aware,  
25 you can't just make witnesses available for one day.

1 You've got to make them available for the entire time  
2 of the deposition.

3 MS. BIXENSTINE: Frank, I'm talking about  
4 the scheduling of this, and you told me that you  
5 thought it would not take more than a day and thought  
6 it might only take half a day. So we're making him  
7 available for today rather than move for a protective  
8 order on the grounds that none of this is relevant to  
9 the Mangini case, and it's burdensome on Reynolds.

10 So I'm just letting you know that I think  
11 with a record like this and spending an hour and a half  
12 on, you know, very general background on what computer  
13 systems Reynolds uses, we'll have a good record for  
14 objecting to any further days.

15 MR. JANECEK: Well, as you should be  
16 aware, as I've told you, that's what the purpose of  
17 this deposition was, was general background information  
18 to find out the types of systems used by Reynolds and  
19 the types of information that's stored and kept.

20 MS. BIXENSTINE: As I said, Mr. Martin is  
21 very knowledgeable about those things. If you want to  
22 spend the entire day on this, that's fine with me, but  
23 I just want you to know my position now at 11:25 that I  
24 am going to resist producing him for any time beyond  
25 today based on burden to Reynolds, relevance, and given

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1 his seniority, so I just want you to be aware of that.

2 MR. JANECEK: Your position is noted, and  
3 I disagree with your position.

4 BY MR. JANECEK:

5 Q. With respect to the LAN, how long has  
6 Reynolds used a Windows driven system?

7 A. Again, I don't recall the exact date. It  
8 did increase in its use as we began to provide LAN  
9 services to the users during this increase over the  
10 last two years of the LAN environment.

11 Q. Has Reynolds always provided workstations  
12 to various departments or is that a recent upgrade?

13 MS. BIXENSTINE: Objection to the form of  
14 the question.

15 A. Could you clarify workstations for me,  
16 please?

17 Q. Sure. If I understood your testimony  
18 correctly earlier, the various departments have  
19 workstations, terminals, that the other employees,  
20 marketing people and sales people, can utilize. Did I  
21 understand that correctly?

22 MS. BIXENSTINE: Let me object to the form  
23 of the question. Reynolds has been in business since  
24 the early 1900s, and your question was has Reynolds  
25 always provided workstations? Is that your question?

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1 MR. JANECEK: No. My question is since  
2 Mr. Martin has been with the I.R. department, which has  
3 been this entire line of questioning, has Reynolds  
4 provided workstations?

5 MS. BIXENSTINE: That was not your  
6 question, Mr. Janecek. Is that your new question?

7 Q. You can answer the question.

8 A. Would you repeat the question, please?

9 Q. Since you've been with the I.R.  
10 department, has Reynolds provided workstations to the  
11 other departments for the entire time?

12 MS. BIXENSTINE: Objection to form of the  
13 question. Do you mean were workstations available to  
14 every person throughout the company in any department  
15 since Mr. Martin has been with the information  
16 resources department?

17 MR. JANECEK: Well, let Mr. Martin answer  
18 the questions that I ask. If he has a problem  
19 understanding them, he can ask me for clarification.

20 MS. BIXENSTINE: I object to the form of  
21 the question.

22 Q. Did you understand the question?

23 A. Could you repeat the question?

24 Q. Since you've been with the I.R.  
25 department, has Reynolds provided workstations to all

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1 other departments?

2 MS. BIXENSTINE: I repeat my objection.

3 A. No, they have not.

4 Q. When did Reynolds first begin providing  
5 workstations to the other departments?

6 MS. BIXENSTINE: Objection to the form of  
7 the question. Do you mean to all of the departments or  
8 when did it start providing this to the first person in  
9 the department?

10 Q. Do you understand the question?

11 A. Could you clarify the question, please?

12 Q. When did Reynolds first start providing  
13 workstations to other departments within the company?

14 MS. BIXENSTINE: Objection to the form of  
15 the question. What do you mean by workstations? Do  
16 you mean a PC?

17 MR. JANECEK: He can answer the question  
18 if he understands it. He's already defined the  
19 workstation. I don't like your coaching the witness.

20 MS. BIXENSTINE: I'm not coaching the  
21 witness. I just think that this record is going to be  
22 hopelessly confused because your questions are so  
23 vague.

24 A. Could you repeat the question?

25 MR. JANECEK: Could you read back the

1 question, please?

2 (Record read as follows:

3 "Question: When did Reynolds  
4 first start providing workstations to  
5 other departments within the company?"

6 MS. BIXENSTINE: Objection to the form of  
7 the question.

8 MR. JANECEK: Your objection has been  
9 noted already.

10 A. R. J. Reynolds has utilized various forms  
11 of technology for quite sometime. Each department  
12 requests certain technology. They make the purchases  
13 according to guidelines, which information resources is  
14 involved in describing, and that is not to imply every  
15 individual in every department has a workstation,  
16 terminal, or PC.

17 It is not unusual that in most departments  
18 to find individuals who do utilize company provided  
19 workstations, terminals, or PC's. The exact date that  
20 Reynolds Tobacco Company started providing those, I do  
21 not know. It has been a business practice since I have  
22 been involved in information resources.

23 Q. Mr. Martin, I'm going to go department by  
24 department right now. With respect to the sales  
25 department, what access do the sales employees have to.

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1 a Reynolds provided workstation?

2 MS. BIXENSTINE: Objection to the form of  
3 the question.

4 A. Could you --

5 Q. Do all individuals have a PC provided by  
6 Reynolds or a workstation provided by Reynolds, whether  
7 it's a LAN or a PC or some other network?

8 A. No, they do not.

9 Q. Where is the cutoff for individuals that  
10 have access to a Reynolds workstation?

11 MS. BIXENSTINE: Objection to the form of  
12 the question.

13 A. It's business access and utilization of  
14 the information technology tool is dependent on the  
15 business requirements.

16 Q. And what I'm trying to find out is the use  
17 of computers for the sales department. Do all managers  
18 have a workstation?

19 MS. BIXENSTINE: Objection to the form of  
20 the question.

21 A. No. All --

22 MS. BIXENSTINE: When you're talking about  
23 managers, are you talking about district managers out  
24 in the field or are you talking about managers --

25 MR. JANECEK: Managers.

1 MS. BIXENSTINE: I object to the form of  
2 the question. Your definition of managers -- are you  
3 talking about people in Winston-Salem in the sales  
4 department or are you talking about people out in the  
5 field? I object to the form of the question. It's  
6 vague.

7 A. Could you clarify managers for me?

8 Q. Let's take as an example electronic mail.  
9 Does the sales department have access to electronic  
10 mail?

11 MS. BIXENSTINE: The entire sales  
12 department? People out in the field? Is that what you  
13 mean? There's a sales department at -- excuse me.  
14 What's confusing is that there's a sales department  
15 located in Winston-Salem. There's also people who are  
16 employed by Reynolds who are out in the field in the  
17 various areas, sales areas, throughout the country, and  
18 it wasn't clear to me if you meant -- you're  
19 distinguishing between people in the field and people  
20 who work in Winston-Salem in the sales department?

21 MR. JANECEK: I am not. I'm just asking  
22 if the sales department has access to electronic mail.

23 MS. BIXENSTINE: So you're talking about  
24 the sales department as a vague entity?

25 MR. JANECEK: Exactly.

1           A.       I find the question a bit confusing, Mr.  
2       Janecek. If you're saying is electronic mail made  
3       available to the sales department, the answer is yes.

4                   Is that sales department all inclusive of  
5       every individual who happens to be classified as being  
6       assigned to the sales department within R. J. Reynolds  
7       Tobacco Company, the answer is no.

8           Q.       Is there some demarcation? A sales  
9       department located at Reynolds in North Carolina as  
10      opposed to satellite offices, or however you would term  
11      the sales people within the department that are not at  
12      Reynolds, does the sales department have -- is there a  
13      demarcation as to who has access to electronic mail?

14                   MS. BIXENSTINE: Objection to the form of  
15      the question. You may answer if you understand.

16           A.       General availability is driven by business  
17      requirements and also technology. In some areas it is  
18      just technically impossible because the individual  
19      doesn't have a device to even access electronic mail or  
20      any other. There's not a device that is there. They  
21      don't have one.

22                   And the other is general technology from a  
23      remote location to be able to access the electronic  
24      mail system. It is not uncommon for electronic mail to  
25      be utilized throughout the company including the sales

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1 department.

2 Q. That's what I'm trying to get is the  
3 extent of access. Do you know who in the sales  
4 department has a Reynolds provided workstation that  
5 would allow them to access electronic mail?

6 A. (No response.)

7 Q. It's a yes or no question. Maybe you're  
8 not the person I should be asking these questions is  
9 why I'm asking this question.

10 A. Is your question can I name everyone  
11 that's in --

12 Q. Not name, but by levels?

13 MS. BIXENSTINE: Objection to the form of  
14 the question.

15 A. I cannot name everyone within the sales  
16 department who has access. We do provide that based on  
17 a business need. The majority of the administrative  
18 assistants, as an example, would have electronic mail.  
19 People who provide business support within the sales  
20 department who need access to various systems including  
21 electronic mail are, in fact, systematically granted  
22 that access.

23 MS. BIXENSTINE: Is this a good time to  
24 take a break?

25 MR. JANECEK: Sure. But I want to finish

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1 up this line of questioning. Then we'll take a break.

2 Q. Are these individuals that you were  
3 describing -- the administrative assistants and the  
4 business support personnel -- located physically at the  
5 Reynolds offices in North Carolina?

6 A. Some are, yes.

7 Q. Is it safe to say that all employees in  
8 the sales department located at Reynolds headquarters  
9 in North Carolina have access to a Reynolds provided  
10 workstation that would give them electronic mail  
11 capabilities?

12 MS. BIXENSTINE: Objection to the form of  
13 the question.

14 A. No, it is not safe to say that.

15 Q. And there's no clear demarcation as to who  
16 would have access to electronic mail other than  
17 administrative assistants and business support  
18 personnel within the sales department?

19 A. Again, that demarcation is based on  
20 business requirements, and it's based on the various  
21 levels if they need that to conduct their job. Their  
22 classification, I cannot truly name to you, but they  
23 are provided the access that is required to support the  
24 sales organization based on the job they're hired to  
25 do, and part of each one's task is a general

1 description of things they're needed to perform.

2 If the use of a workstation, PC, or other  
3 device is required, then R. J. Reynolds provides that  
4 at different points. Some people would not require  
5 that to do their job, and it's difficult for me to  
6 explain a clear demarcation other than the business  
7 requirements without trying to list every job level and  
8 looking at the various functions that they're supposed  
9 to perform.

10 Q. Would this be something better within the  
11 knowledge of Kay Word who I believe you testified is --  
12 her area of responsibility is the sales systems?

13 A. In my opinion, no, it would not because of  
14 the nature of the question that I am trying to respond  
15 to.

16 MR. JANECEK: We can take a break.

17 (Recess taken from 11:39 to 12:47

18 a.m.)

19 BY MR. JANECEK:

20 Q. Mr. Martin, we were unable to ascertain  
21 any clear demarcation as to which employees in the  
22 sales department have individual workstations provided  
23 by Reynolds. What about in the brand management  
24 department?

25 MS. BIXENSTINE: Objection to the form of

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1 the question. You may answer if you understand.

2 A. Again, based on the business requirements  
3 of the individuals that they are assigned, they would  
4 be provided by the department and R. J. Reynolds  
5 Tobacco Company the appropriate technology.

6 Are there levels that requires positions,  
7 the answer is yes; and are there levels that do not  
8 require the use of that, the answer is also yes.

9 Q. Mr. Martin, maybe to shortcut this, would  
10 it be possible for your department to print out a list  
11 of all individuals at Reynolds that have a Reynolds  
12 provided workstation?

13 MS. BIXENSTINE: Objection to the form of  
14 the question. I still don't know if what you mean by  
15 workstation is the same as what he means by  
16 workstation.

17 MR. JANECEK: I believe we do. We're  
18 talking about a PC that an individual can use to access  
19 Reynolds' systems.

20 A. I was describing workstations with regard  
21 to being a device that could access the information.  
22 It's not necessarily a reference to PC's, terminals,  
23 and other devices that could have access to, because of  
24 business needs, information or utilize the technology  
25 appropriate.

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1 Q. What other devices besides PC's and  
2 terminals would you be referencing?

3 A. As an example, within the manufacturing  
4 arena, they use a handheld device for receiving of  
5 materials. That handheld device has a wand on it and  
6 is connected electronically to the system itself. It  
7 is not a PC. It is not a terminal as I was referring  
8 to it.

9 Q. For the purposes of this deposition, let's  
10 limit my use of the term "workstation" to terminals,  
11 PC's -- that would include the dumb terminals and PC's  
12 -- that would be capable of sending and receiving  
13 electronic mail. Is that a fair -- do you understand  
14 what I mean?

15 A. Could you repeat that?

16 Q. Sure. When I'm using the term  
17 "workstation," I'm talking about a PC or dumb terminal  
18 that has access to computer information kept,  
19 maintained, and used by Reynolds. I am envisioning a  
20 PC or a terminal where you can sit down and type in  
21 your E-mail or that would have other software  
22 applications available to it.

23 MS. BIXENSTINE: So is that going forward  
24 because I think some of the answers to the earlier  
25 questions given by Mr. Martin were answers in which his

1 understanding of workstation may have been different  
2 from yours.

3 Q. Do you understand my use -- would the use  
4 of the term terminal be more correct?

5 A. I am -- it probably generally would. The  
6 statement you made about defining it to E-mail, is  
7 that --

8 Q. Not every terminal would have E-mail. Is  
9 that your point?

10 A. Yes. That's what is making part of this a  
11 bit confusing.

12 Q. And I was just using E-mail as an  
13 illustrative device. I wasn't necessarily limiting --  
14 terminal would be any PC or dumb terminal that would  
15 allow access to software information that Reynolds  
16 provides. Do you understand that?

17 A. Yes, I do.

18 Q. Is there any clear demarcation within the  
19 sales department --

20 MS. BIXENSTINE: Wait. I'm not sure I'm  
21 clear. Do you mean all of the software that Reynolds  
22 provides or certain of the --

23 MR. JANECEK: Any software.

24 MS. BIXENSTINE: Okay.

25 Q. Within the sales department, is there any

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1 clear demarcation as to who is provided a terminal by  
2 Reynolds?

3 A. That demarcation is with regard to the  
4 business function that they are supporting or providing  
5 of why they are hired, and it's based on the business  
6 requirements employees have to support.

7 Q. Do you know if senior managers within the  
8 sales department are provided with terminals?

9 MS. BIXENSTINE: Objection to the form of  
10 the question. What do you mean by senior managers?

11 Q. If you understand? Executive managers.

12 MS. BIXENSTINE: Objection to the form of  
13 the question. Same problem.

14 A. Could you clarify what you mean by  
15 executive?

16 Q. Again, I'm trying to do it the easiest way  
17 possible which is the goal of this line of questioning  
18 is to determine if there's any demarcation as to who  
19 does and does not have terminals in their office  
20 starting with the sales department.

21 Do the vice presidents and officers have  
22 terminals? Do you know?

23 A. I do not know everyone by name that --  
24 there are vice presidents who have terminals, yes.

25 Q. But not every vice president within the

1 sales department would have a terminal?

2 A. I do not -- I do not know whether every  
3 one, every vice president, has one or not.

4 Q. Is there -- I guess that gets us back to  
5 the question that we asked before the break. Is there  
6 a way for the information resources department to  
7 generate a list of all individuals currently employed  
8 by Reynolds who have any terminal which allows them to  
9 access Reynolds software?

10 A. Technically, that is feasible but would be  
11 extremely burdensome to collect from the terminal  
12 aspect to accumulate the list of employees by name.

13 Q. Are passwords or encrypted files used on  
14 any computer system by Reynolds?

15 A. Passwords are utilized with regard to the  
16 systems utilized by Reynolds.

17 Q. Is it possible for Reynolds to print out a  
18 list of all individuals and their passwords?

19 A. No, that is not possible.

20 Q. Who could provide access codes if they're  
21 required?

22 A. Could you --

23 Q. Who could provide a list of passwords if  
24 they were required?

25 A. A list of passwords would have to come

1 from each individual user, and they would only know  
2 their password.

3 Q. There's no systems operator that would  
4 know individuals' passwords?

5 A. There is not one operator who could  
6 provide a list of passwords.

7 Q. Would any systems operator have access to  
8 an individual's password?

9 A. Passwords are for information protection  
10 and are oriented toward the individuals themselves.  
11 They are determined by each person for the purposes of  
12 information protection. Therefore, the process of the  
13 password is with regard to each individual who is  
14 granted access to define their password, and that is  
15 their property and one of the security protection  
16 means, methods, procedures that we utilize at R. J.  
17 Reynolds Tobacco Company.

18 Q. In the event that an individual forgot his  
19 or her password or died, are you telling me that  
20 there's no way that Reynolds could access the  
21 information that that person has stored on his  
22 terminal?

23 A. No, I am not.

24 Q. How would Reynolds access that information  
25 in that event?

1           A.       This is a complex question. In trying to  
2       simplify it, the procedure would be what we would refer  
3       to as a password reset based on verification that that  
4       was appropriate and the individual who is requesting  
5       such a password or reset is the appropriate individual  
6       and has been granted access in the first place to even  
7       get to the point that they can have a password.

8           Q.       Is there any other way that Reynolds could  
9       access that information other than the password reset?

10          A.       Could you clarify what you mean by  
11       information?

12          Q.       In the event that someone forgot their  
13       password or died and couldn't provide their password,  
14       other than a password reset that you just described, is  
15       there any way for Reynolds obtain information stored on  
16       the terminal behind that password?

17          A.       Again, that's a complex question. Access  
18       is granted to individuals based on business  
19       requirements, and that is the demarcation and the  
20       deciding factor of who has access to information  
21       because they need it to do their job.

22                 If that information was, as an example,  
23       personnel, their function was to support personnel,  
24       they would be granted an access. Additionally, they  
25       would be required to define a password. They utilize

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1 both of those to be able to obtain information from the  
2 systems at R. J. Reynolds Tobacco Company.

3 In the event they would forget a piece of  
4 that such as the password, then you would go through a  
5 password reset. Just because one individual forgot  
6 their password does not mean that the information that  
7 was in the system is still not in the system.

8 So when you said is there any other way,  
9 the information is in the system, and other individuals  
10 were not inhibited from looking at that because one  
11 individual forgot their password. Can that be reset  
12 and can they again have access to the information, the  
13 answer is yes; but that is not necessarily applicable  
14 to everything that's everywhere in every electronic  
15 form within R. J. Reynolds Tobacco Company.

16 Q. So Reynolds has two levels, the access  
17 code and then a password; is that correct?

18 A. Those are two of the levels of security  
19 that are employed in information protection.

20 Q. And no one at Reynolds could provide a  
21 list of individuals and their passwords; is that  
22 correct?

23 MS. BIXENSTINE: Asked and answered.

24 A. I'm sorry. Repeat.

25 Q. Is it true that no one at Reynolds could



1 provide a list of individuals and their passwords?

2 A. That is true.

3 Q. Can anyone at Reynolds provide a list of  
4 individuals and their access codes?

5 A. It would be very burdensome, but that is a  
6 technically feasible thing to do.

7 Q. Describe the burden.

8 A. I have described the multiple environment  
9 vendor-wise. Each vendor has within their capabilities  
10 general functions that can grant access; and the  
11 digital environment, as an example, or DEC environment  
12 is different from the IBM environment.

13 The process that is utilized is based on  
14 business needs. A data owner, who it would be a key  
15 individual, would grant access through a request form  
16 that would identify the person, their relationship, and  
17 the reason for the business need that they need to be  
18 granted access. That is a formal request that is, in  
19 fact, tracked and documented.

20 That request then is processed within the  
21 information resources department, and the person is  
22 either, based on that business need, is granted or not  
23 granted access. If they would need a device, a  
24 terminal as we described it, to have that access, then  
25 the department that is there and the company would

1 provide that terminal.

2 So each one who is granted access is in  
3 general treated on an individual basis. However, there  
4 are those places where from an administrative point the  
5 type of security is not an individual password but is a  
6 terminal password such as in central supply where you  
7 have clerks who, in essence, their accountability is to  
8 get and retrieve orders and they would have access to  
9 information because of their job function.

10 Listing that throughout the entire  
11 corporation means that from different environments that  
12 are oriented toward the protection of that environment,  
13 those would have to be accumulated, formatted to  
14 various lists, and in essence printed out or generated  
15 in some type of medium that they can be read as opposed  
16 to reading them on-line.

17 It would require some degree of  
18 programming because that is not -- to generate such a  
19 list is not a normal business requirement across the  
20 multiplicities of the environments that we are talking  
21 about within the company. It is technically feasible  
22 to be able to do that.

23 Q. That gets me back to E-mail. Is it  
24 possible to print out a list of all individuals at  
25 Reynolds that have access to E-mail?

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1 A. Again, that is technically feasible.

2 MR. JANECEK: Can I ask counsel to present  
3 such a list so I can forget about this line of  
4 questioning to determine who does and doesn't have  
5 access to terminals?

6 MS. BIXENSTINE: I think that we would  
7 object on the grounds of burden based on the number of  
8 people. I think it would be a very long list, and  
9 given the burden that Mr. Martin has described -- you  
10 want a list of every person who has access to E-mail  
11 throughout R. J. Reynolds Tobacco Company?

12 MR. JANECEK: Let's ask Mr. Martin that.  
13 He didn't testify as to any burden with the E-mail. He  
14 did testify as to the access codes.

15 MS. BIXENSTINE: I thought he did.

16 BY MR. JANECEK:

17 Q. How difficult would it be to present such  
18 a list or to obtain such a list?

19 A. Again, it would be burdensome. There are  
20 multiple E-mail systems that are utilized depending on  
21 the function that is there. Again, you would have to  
22 accumulate those lists and you would have to generate  
23 them in some usable format.

24 Do we keep up with that? The answer is  
25 yes, but it's oriented toward each individual. It is

1 not a normal practice for us to generate a listing of  
2 accesses across the various systems which are in excess  
3 of 250 different systems that access is tracked on and  
4 granted to individuals.

5 It is very common for us to keep up with  
6 each individual to make sure that they, in fact, have  
7 the appropriate access to do their job, that they're  
8 approved to do that, and in the event for some reason  
9 that they would leave the company, we could terminate  
10 that access.

11 Q. I guess that's where I'm getting at. I'm  
12 not talking about access codes, but I'm assuming that  
13 your system has the addresses for E-mail. Is it an  
14 individual basis? Can Mr. Martin send an E-mail to Ms.  
15 Word?

16 A. Yes, I can.

17 Q. And wouldn't it be very easy to generate a  
18 list of E-mail addresses, the individuals, who are  
19 capable of sending and receiving E-mail?

20 A. It wouldn't be very easy. Is it feasible?  
21 Yes, it is.

22 Q. How difficult would it be?

23 A. Again, across multiple E-mail systems,  
24 there are several that are used. Individuals are  
25 granted access on an individual basis. It is not

1 something that is normally done, so, therefore, a  
2 program would have to be written to generate such a  
3 listing itself. It would have to be written for the  
4 different environments that are associated with it.  
5 Then it would have to be run which means that you would  
6 have to process it.

7 It's, again, technically feasible. It is  
8 not something that in the normal course of business in  
9 supporting the business R. J. Reynolds Tobacco Company  
10 does.

11 Q. How long would it take to write and run  
12 such a program?

13 A. I truly, truly do not know.

14 Q. Are we talking in the magnitude of hours  
15 or years?

16 A. I think on the magnitude of days  
17 appropriate to do that.

18 MS. BIXENSTINE: To run or to write or  
19 what?

20 Q. To obtain such a list. And how many  
21 people would it take to do that?

22 MS. BIXENSTINE: Frank, are you talking  
23 just about all the people at Reynolds who currently  
24 have E-mail capability? You're just talking about  
25 current?

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Q. It appears we're unable to get a demarcation as to who does and doesn't have a terminal. What I'm trying to determine the best way that we can is to obtain either a list of individuals who have a terminal or some demarcation that management level has it, non-management employees don't.

MS. BIXENSTINE: There's some management people who aren't very computer oriented. They probably could get one, but they may not use it.

MR. JANECEK: I understand.

A. To the best of my knowledge right now, it would involve at least five different people to create such a list.

Q. Would these be the systems operators for the various systems used by Reynolds?

A. In some cases, it would be.

Q. Other than systems operators, who would you envision these five people be?

A. Someone from security and someone from technical support. Security, meaning data administration security as opposed to --

Q. Their role would be to basically watch and make sure that the information is not going somewhere it shouldn't; is that correct?

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1           A.       It would be more. If you're referring to  
2 the security people, it would be more than that.

3           Q.       What involvement would they have?

4           A.       If you remember -- or I stated earlier  
5 about the process for granting access. When those  
6 requests are made, that is the area that they're  
7 funneled through is a security area to make sure that  
8 it is accurate and appropriate. And with regard to  
9 that, that does involve the mail administration side as  
10 well as the security side associated with that. They  
11 have to be granted access to a device before they can  
12 be granted access to the E-mail system.

13          Q.       Would the security individuals be able to  
14 provide a list of people who have access to a device?

15                   MS. BIXENSTINE: Objection to the form of  
16 the question.

17          A.       Would they solely be able to do that? The  
18 answer is no. If you are talking about the list, which  
19 I interpreted your question to be, by themselves they  
20 could not generate such a list.

21          Q.       But security, is that a department?

22          A.       Security is a group within information  
23 resources. It's a functional area, as I would refer to  
24 it. It does have a manager.

25          Q.       So the security group would have the

1 information from which the list could be compiled; is  
2 that correct?

3 MS. BIXENSTINE: Objection to the form of  
4 the question.

5 A. The security group would have access to  
6 most of that information. They could involve other  
7 people such as the technical group in doing that.

8 Q. Okay. Has Reynolds modified its use of  
9 computers to comply with recent discovery questions?  
10 Actually, they're not recent anymore. They were served  
11 six months ago or so.

12 MS. BIXENSTINE: Objection to the form of  
13 the question. You mean discovery requests in this  
14 case?

15 MR. JANECEK: Yes, in this case.

16 MS. BIXENSTINE: Modified its hardware?

17 MR. JANECEK: It's computers, its  
18 software, hardware.

19 A. Modified -- would you clarify the  
20 question?

21 Q. Sure. Are you aware that -- and I don't  
22 remember what month it was -- that several months ago  
23 discovery was served in the action which you are  
24 currently being deposed, Mangini versus R. J. Reynolds?

25 A. Yes.



1 Q. Was Reynolds' computer systems modified in  
2 any way to comply with that discovery that we were just  
3 discussing?

4 MS. BIXENSTINE: Objection to the form of  
5 the question.

6 A. To my knowledge, no modification was  
7 required compared to the standard practices and  
8 procedures that were being utilized with regard to  
9 supporting the business operation as well as the  
10 long-term operation of the company.

11 Q. So any modification were for business  
12 reasons and not in any way related to the discovery  
13 that was served in this action?

14 MS. BIXENSTINE: Objection to the form of  
15 the question.

16 A. To my knowledge, no, no modification was  
17 required.

18 Q. Mr. Martin, I want to talk a little bit  
19 about backup and retention. Can you list all computer  
20 systems in Reynolds that are backed up -- are routinely  
21 backed up?

22 A. I am not sure I can name every system. As  
23 I stated, there's over 250 different systems that are  
24 utilized as major applications. I could not -- I don't  
25 think I could name all 250 of those.

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1 Q. What about from the reverse? Are there  
2 any systems at Reynolds that are not backed up?

3 A. Of the major applications that are  
4 utilized, the normal process that is utilized is to  
5 backup from the operational perspective, and  
6 consequently, they are, in fact, backed up.

7 Does that mean, again, every piece of  
8 information is backed up? No. It would not be simply  
9 because it's not required to support the business or  
10 any other potential reason that it would need to be  
11 backed up.

12 Q. Can you describe for me the backup  
13 programs that are used?

14 MS. BIXENSTINE: Objection to the form of  
15 the question.

16 A. Could you clarify programs?

17 Q. Sure. For example, does Reynolds use Art  
18 Serve, Storage Express, other programs?

19 A. I cannot recall the exact program that is  
20 utilized in every system that is backed up. Do we  
21 utilize programs to accomplish that? The answer is  
22 yes, and those are what we refer to in some cases as  
23 utilities. Fastback would be one that is utilized on  
24 PC. That one I happen to recall.

25 Q. Can you recall any other backup programs

1 or utilities?

2 A. Not at this time. I really cannot.

3 Q. If we were to leave a blank in this  
4 deposition transcript, could you ascertain from the  
5 I.R. department which backup programs Reynolds does  
6 use?

7 MS. BIXENSTINE: Objection.

8 A. I could obtain a list of programs that are  
9 utilized in our backup process.

10 MR. JANECEK: Madam Court Reporter, could  
11 you leave some space for Mr. Martin so that he can  
12 include that list?

13 MS. BIXENSTINE: Why don't you just serve  
14 us with an interrogatory?

15 (Information requested:  
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Q. Mr. Martin, is the backup process at Reynolds automated?

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A. The vast majority of backups or retaining is, in fact, automated and particularly for the major systems that are utilized to support the business operations of R. J. Reynolds Tobacco Company.

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Q. Could you describe the type of backup media that's used? Is it backed up on tapes, drives?

MS. BIXENSTINE: Objection to the form of the question.

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A. Depending on the time frame that is utilized, the two most common media that are utilized for electronic backup are disk storage we refer to as DASD, and that's direct access storage device, and tape media.

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Q. Is there a tape rotation cycle?

A. Would you please clarify?

Q. How often are the backup tapes rotated?

MS. BIXENSTINE: Objection to the form of the question.

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A. Backups, depending on the time frame and depending on the media, that could be daily that are

1 taken, and they are rotated to our silos, and basically  
2 that's an on-line. They're rotated within the silos,  
3 meaning, moved from one place to another. I mean, that  
4 occurs all the time.

5 Q. Do you reuse backup tapes?

6 A. In some cases, we do reuse backup tapes.

7 Q. How often -- that's where the question was  
8 headed. How often -- is there a set specified cycle as  
9 to when tapes are reused -- backup tapes are reused?

10 A. The frequency of reuse is dependent on the  
11 retention that is required and the reason that the  
12 backup is taken in the first place. What was the  
13 business reason that was driving the necessity of  
14 having to do that backup.

15 So that frequency varies, and it varies  
16 with the system and functionality that you are trying  
17 to support by virtue of the backup itself.

18 Q. What's the shortest rotation that you're  
19 aware of?

20 A. The shortest rotation that I'm aware of  
21 with tape media is daily.

22 Q. Are you aware if any tapes have been  
23 pulled from rotation?

24 MS. BIXENSTINE: Objection to the form of  
25 the question.

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1 Q. With respect to tapes, if I understand you  
2 correctly, some tapes are rotated and some tapes  
3 aren't; is that correct?

4 A. That's correct.

5 Q. With respect to those tapes that are  
6 rotated, are you aware of any tapes that have been  
7 pulled from the rotation?

8 A. What do you mean by pulled?

9 Q. That are taken out of the family of tapes  
10 that are typically rotated and placed with the  
11 not-to-be rotated?

12 A. There are those that are taken out of the  
13 rotation and are no longer used or put in the rotation.  
14 We call those scratched tapes.

15 Q. Why are they no longer used within the  
16 rotation?

17 A. It could no longer be usable or have been  
18 used for a period of time.

19 Q. Other than as a function of their  
20 inability to be used again, are you aware of any tapes  
21 that were pulled for rotation to be stored?

22 A. Yes, I am.

23 Q. What types of tapes are typically pulled  
24 other than for their inability to be reused?

25 A. The backup retention process that I have

1       been referring to is a process that is driven by one of  
2       four major reasons. That is business requirement  
3       itself, that is, just because of the sheer volume,  
4       you're required to move tapes in and out and to have it  
5       on tape media to load information because of volume as  
6       opposed to keeping it on on-line DASD disk access.

7               The second reason that you have backup and  
8       retention of electronic media is because of operational  
9       recovery. In the event that something would happen  
10      during the course of normal business operations that  
11      you would have the failure of a hardware device or  
12      software, you keep daily backups to be able to restore  
13      the business so that once you fix that problem that  
14      information is not lost and you can continue to conduct  
15      business.

16             The third reason is for disaster recovery,  
17      and that is in the event of a catastrophic disaster as  
18      opposed to the operational failure that you would lose  
19      the major resources of R. J. Reynolds Tobacco Company  
20      that support the business; and that way the backups  
21      that are used and the retention is so that you could go  
22      to an off-site location and restore business  
23      operations. That's why we refer to it as disaster  
24      recovery within the information. An earthquake would  
25      be an example of something catastrophic that would

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1 occur locally that would invoke the disaster recovery  
2 scenario.

3 The fourth category is to meet special  
4 requirements such as with regard to supporting  
5 litigation information that would need to be retained.

6 MS. BIXENSTINE: Frank, I understand that  
7 our lunch is here, so whenever you want to take a  
8 break.

9 MR. JANECEK: I have four or five more  
10 questions before the next topic, so can we finish this  
11 one out?

12 MS. BIXENSTINE: Okay.

13 Q. What tape destruction method does Reynolds  
14 employ? Back up. Does Reynolds destroy backup tapes  
15 in the normal course of business?

16 MS. BIXENSTINE: Objection to the form of  
17 the question.

18 A. Could you clarify what you mean by  
19 destroy?

20 Q. For example, you testified that sometimes  
21 tapes can't be reused for whatever reason?

22 A. Yes.

23 Q. Would Reynolds destroy those tapes?

24 A. Yes, we would.

25 Q. What destruction method would Reynolds



1 use?

2 A. Physical destruction.

3 Q. They would be shredded?

4 A. Yes.

5 Q. No degaussing?

6 A. Yes. It would if -- there is a process  
7 that is utilized to remove a tape because it can't be  
8 reused, and it's a pretty straightforward process, and  
9 it would be similar to discarding it so that you can't  
10 inadvertently load it back in and removing it from the  
11 premises.

12 Q. In the normal course of business, is it  
13 only those tapes that can't be reused that Reynolds  
14 destroys?

15 A. Would you repeat that?

16 Q. Sure. You have testified that there's  
17 rotation tapes sometimes daily, and some tapes are  
18 stored off-site for other purposes. Are either -- one  
19 other clarification -- and that sometimes the tapes  
20 can't be used or read, and in those events, they're  
21 destroyed.

22 Other than the circumstances where a tape  
23 can't be used or read, does Reynolds in the normal  
24 course of business have any destruction policy or does  
25 it store everything?

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1 MS. BIXENSTINE: Are you just talking  
2 about electronic tapes now?

3 MR. JANECEK: Yes.

4 MS. BIXENSTINE: Not hard copy documents?

5 MR. JANECEK: Yes.

6 A. There is a retention policy and practice  
7 that is utilized when -- first you would try to recycle  
8 as we've described the tapes. In the course of when  
9 they would meet their retention limit and could be  
10 utilized for something else, then they begin to go  
11 through a process that would allow their reuse. In the  
12 cases where that tape is discarded, then its served its  
13 useful purpose and is now ready to move to its next  
14 stage.

15 When they physically examine these tapes,  
16 they could determine that this tape has been used to a  
17 point we would like to take it out, and consequently,  
18 it has gone through the process of being ready for its  
19 next cycle, and then it is removed. That is a normal  
20 process in the process of rotation that's applied to  
21 all of those devices that are in rotation. Those that  
22 are not within the reuse cycle are in essence being  
23 held and, therefore, are there. They're not part of  
24 what we're trying to do from the cost management  
25 perspective of reuse of a device as long as you

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1 reasonably can without taking a chance that it would  
2 not make it through its cycle or would cause a major  
3 malfunction somewhere else.

4 Q. Is there a typical time frame before that  
5 recycling process is put in?

6 A. The time frame for recycling varies, and,  
7 again, it's driven by the four factors that I  
8 described.

9 Q. Maybe I misunderstood you. Maybe the  
10 question should be, when tapes that are stored are sent  
11 to the recycling for reuse, is that a function of  
12 storage space or is it that they're typically recycled  
13 every six months or a year?

14 MS. BIXENSTINE: Are you talking about  
15 tapes that are not covered by these four categories?

16 MR. JANECEK: I think all tapes are  
17 covered by the four categories.

18 MS. BIXENSTINE: Well, are you suggesting  
19 that all tapes are reused?

20 MR. JANECEK: I think that's what he was  
21 testifying is that --

22 MS. BIXENSTINE: No. I think that's a  
23 mischaracterization of his testimony.

24 Q. Could you clarify that for me?

25 A. Clarify what?

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1           Q.       I thought that you had testified -- and  
2       your counsel says I may be mistaken -- that tapes that  
3       are stored and are not part of the daily recycling or  
4       the daily rotation, tapes that are stored off-site or  
5       on-site sometimes and that at some point in time where  
6       storage becomes full, tapes are recycled, prepped for  
7       reuse to be used in another way. Is that correct or  
8       did I misunderstand you?

9           MS. BIXENSTINE: Are you suggesting that  
10      all tapes are reused and that there aren't some that  
11      are stored for business purposes or litigation  
12      purposes? Is that what you are saying?

13      A.       Again, please.

14      Q.       Maybe we'll just back up since one of us  
15      doesn't understand, and it may well be me.

16      MS. BIXENSTINE: It seems like you are  
17      confused.

18      Q.       Can you describe for me how tapes are  
19      cycled or reused? Those tapes that are stored -- and  
20      you have described the four categories of when they're  
21      stored: for business reasons, for operation reasons,  
22      for disaster, recovery, and litigation -- are those  
23      tapes ever destroyed or reused?

24      MS. BIXENSTINE: And you're talking about  
25      the physical tape itself, not the data on the tape?

1 MR. JANECEK: The physical backup tape,  
2 correct.

3 MS. BIXENSTINE: So you're talking about  
4 the tape and not the data?

5 MR. JANECEK: Well, the data is on the  
6 tape and it's stored; am I correct?

7 MS. BIXENSTINE: Well, they may destroy a  
8 tape but move the data to something else to preserve  
9 the data.

10 Q. I'll go back to the general since I'm  
11 obviously missing something. Does Reynolds store its  
12 backup tapes and the information on it in perpetuity?  
13 Every backup tape is stored and that information is  
14 there somewhere?

15 MS. BIXENSTINE: Objection to the form of  
16 the question. It's compound.

17 A. Please clarify.

18 Q. I'm trying to understand Reynolds'  
19 procedures for maintaining backup tapes and the  
20 information on the backup tapes.

21 When Reynolds stores a backup tape, is  
22 that information, barring some physical problem --  
23 rain, fire, earthquake -- is that information stored by  
24 Reynolds forever or is it ever destroyed?

25 A. Information is retained based on the four

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1 categories that I described before. Each one of those  
2 categories could have a different length of time  
3 associated with its requirement. That, in essence,  
4 would dictate how long that tape is kept before it  
5 becomes available for recycle. Recycle, meaning that  
6 we physically can use the tape again.

7 So it varies within each one of those  
8 categories that -- I stated about the daily backups --  
9 that there are additional backups that are treated just  
10 like the daily backups based on their business  
11 requirements because some of the systems and  
12 particularly the information technology infrastructure  
13 has significantly grown within Reynolds Tobacco Company  
14 in the last several years and most recent two or three  
15 that we do have some systems that we have all the  
16 information that has ever been generated with regard to  
17 it.

18 We have other systems that have been  
19 utilized within Reynolds Tobacco Company such as some  
20 of the general ledger or financial systems where that  
21 since their first introduction we do not have, but we  
22 would have what is required and retained what would be  
23 required to support the four categories that I  
24 described earlier, some of which would in essence not  
25 be eligible for recycle due to their definition. The

1 ones that are eligible for recycle are the normal  
2 business ones, and then even if you got into all  
3 categories, when it's no longer required, then we would  
4 try to utilize that tape from the cost end point again  
5 because if it has met its retention limit within those  
6 categories, that means the information is no longer  
7 required to be retained for whatever the reason of any  
8 of those categories is.

9 Q. With respect to these different types of  
10 tapes, are they physically stored in different  
11 locations?

12 A. They physically are in different  
13 locations.

14 Q. Are the backup tapes labeled? Is there an  
15 index?

16 A. Yes, there is.

17 Q. And is that across the board for whatever,  
18 whether it's the systems that are kept forever and the  
19 systems like the financial systems that are kept for a  
20 certain period of time -- all of them are indexed?

21 A. All of them are identified. To say  
22 they're all in the same indexing system or tracking  
23 system, I would say they are all tracked, but they are  
24 not necessarily all tracked within one system.

25 MS. BIXENSTINE: Do you mean if there's an

1 index of each individual tape?

2 MR. JANECEK: Yes. What's on each tape.

3 MS. BIXENSTINE: Because I don't think  
4 that's what he meant.

5 Q. The question is how are the backup tapes  
6 kept? Are the individual tapes labeled, for example?

7 MS. BIXENSTINE: I don't think you have  
8 any conception of how many tapes there are.

9 A. Each one of the tapes that are utilized --  
10 and there are approximately 60,000 that are distributed  
11 over seven silos and in addition to other places of  
12 storage such as rack media outside of those that are  
13 being retained -- each tape is identified uniquely in  
14 some manner.

15 Q. What about outdated backup drives? Do you  
16 keep drives that -- the hard drives that have either  
17 become defective or some of the DASD disks?

18 A. No. We do not because there wouldn't be a  
19 business requirement based on the purpose of DASD  
20 itself.

21 Q. What do you do with those drives --  
22 putting aside DASD, what do you do with the drives once  
23 those are outdated? Are those recycled?

24 A. The normal process -- one is that R. J.  
25 Reynolds leases its equipment, so consequently -- if



1 you recall that I said that the technology changes, so  
2 we would upgrade or change the DASD. All the  
3 information that would need to be retained is  
4 transferred to the appropriate media before a device is  
5 taken out of service, and that could be another DASD  
6 string; and then when the new is installed, it's put  
7 back on the same physical location but a different  
8 device that's associated with it.

9 DASD is not necessarily the primary source  
10 or intended to be the primary source for backup. It is  
11 intended to be for the daily operation of the business,  
12 and it's efficiency type.

13 Q. My last question in this area is has  
14 Reynolds modified its backup procedures in any way to  
15 comply with discovery in this action?

16 MS. BIXENSTINE: Objection to the form of  
17 the question.

18 A. Please repeat the question.

19 Q. We just went over the normal backup  
20 procedure for the tapes and the DASD. Has Reynolds  
21 modified its procedure in any way as a result of  
22 discovery in this litigation, the Mangini versus R. J.  
23 Reynolds?

24 MS. BIXENSTINE: Apart from the litigation  
25 requirements he talked about earlier as one of the

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1 four?

2 MR. JANECEK: Right.

3 MS. BIXENSTINE: Objection.

4 A. Please one more time. I want to make sure  
5 I understand the question.

6 Q. Sure. I'm just asking if Reynolds has  
7 modified its backup procedures in any way as a result  
8 of this litigation, the Mangini versus R. J. Reynolds?

9 A. R. J. Reynolds has been involved in  
10 litigation for quite sometime. That was one of the  
11 categories of the reason of why backups are made and  
12 data and information is retained.

13 To the best of my knowledge, within the  
14 electronic media as a result of this case, the Mangini  
15 case, the current practices that were in place with  
16 regard to retaining information did not require  
17 modification.

18 MR. JANECEK: Shall we take a break now?

19 (At 12:53 p.m. the deposition was  
20 adjourned for noon recess.)

21 (At 1:30 p.m. the deposition of  
22 MARVIN RAY MARTIN was reconvened with the  
23 same persons present.)

24 EXAMINATION (CONTINUED)

25 BY MR. JANECEK:

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1 Q. Mr. Martin, are individual files ever  
2 deleted from computer systems?

3 MS. BIXENSTINE: Objection to the form of  
4 the question. It's extremely broad and vague.

5 A. Could you clarify that for me, please?

6 Q. Before -- if the answer is no, I won't  
7 have to ask the following question. The question is  
8 are individual files deleted from the computer systems  
9 at R. J. Reynolds?

10 MS. BIXENSTINE: Objection.

11 A. Information in individual files is  
12 overwritten by new information in the course of doing  
13 business. In addition, most systems have some  
14 capability to delete certain portions of that such as  
15 -- a word processing document can be deleted as an  
16 example. If that's what you mean by the definition of  
17 a file being deleted, then, yes, that can occur.

18 Q. What about purged, are files ever purged  
19 at Reynolds?

20 MS. BIXENSTINE: Objection.

21 A. Define purging.

22 Q. Not the simple deletion of like a word  
23 processing file, but where someone will go through and  
24 clean a disk or wipe a disk or purge information from  
25 the disk.

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1           A.       It's a very general question, but  
2       depending on the application purging does occur. An  
3       example would be when a disk becomes full of certain  
4       information and that information is outdated, that  
5       information is of no value and doesn't need to be  
6       retained. But for some other reason such as the four  
7       categories that I described earlier, then a purging  
8       does occur, and sometimes an automated process where  
9       it's just the new information comes on and the old  
10      information really goes away in that process itself.

11           Q.       It sounds like you were describing more of  
12      the overwriting? Were you describing when a disk is  
13      overwritten?

14           A.       To some extent, but some of that could be  
15      key date driven where you would actually purge based on  
16      no longer having to retain that data. There's no  
17      longer a want of the requirements to be retained.

18           Q.       Is there a file purge schedule at  
19      Reynolds?

20                   MS. BIXENSTINE: Objection to the form of  
21      the question.

22           A.       To the best of my understanding of the  
23      question, there's not a schedule that would say System  
24      A, B, C, or D is purged at such and such. There is in  
25      the design some of that required for the management of

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1 space and the management of the information. Again,  
2 it's driven by there's no longer a requirement for that  
3 information.

4 Q. What about archiving, does Reynolds  
5 archive information?

6 MS. BIXENSTINE: Objection. Asked and  
7 answered.

8 A. That is the process of backing up that we  
9 described earlier in combination with the retention  
10 that that is the archiving of the information.

11 Q. Let me be a little clearer. Aside from  
12 the backups -- when I'm using the term archive, I'm  
13 using it as backups that are used to free up drive  
14 space but will allow users ready access to the  
15 information. So not the backup tapes per se, but for  
16 example, word processing files to the extent that  
17 they're loaded down onto a disk and if you need to get  
18 that memo or that letter, you can load the disk and  
19 pull it up. That's what I'm using by the term archive.

20 A. Information is transferred from DASD which  
21 would be direct access to tape and could, in fact, be  
22 retained in an off-site; and from your description,  
23 that would be the archiving of information that may be  
24 of value to the company and need to be retained for  
25 later use or for other reasons. That is, again, in

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1 that process that I described in the magnitude of the  
2 60,000 tapes that are in the silos for that reason.

3 Q. Earlier you testified about a disaster  
4 recovery plan. What is Reynolds' disaster recovery  
5 plan?

6 A. R. J. Reynolds Tobacco Company has a  
7 disaster recovery plan that is in place that identifies  
8 in the event of a catastrophic failure to the computing  
9 resource -- or if a subset of the computing resource  
10 would no longer be available to support the business,  
11 there is a disaster recovery plan that involves the  
12 hardware, the software, the operating software as well  
13 as the application software and third party software,  
14 if that's appropriate, that can literally be  
15 transported to another location outside the disaster  
16 arena, and business operations that are affected and  
17 particularly based on the criticality of the business  
18 operation can be resumed in a very short amount of  
19 time.

20 Each application and its associated  
21 programs of the 250 would not necessarily need to be  
22 brought up in the same length of time. So each  
23 application has a severity associated with it, a  
24 ranking, if you would, that would say it is a priority  
25 or it is less of a priority so its frequency would be

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1 to be reinstated first.

2 That works in combination with the user  
3 department who would also be affected because they  
4 could not get to that resource, and so you'd have to  
5 establish a network communication so that users at  
6 another location could, in fact, conduct the business.

7 An example of a priority application  
8 would, in fact, be -- our customer orders would be one.  
9 It would be -- and a financial application, accounts  
10 receivable or billing, depending on the time of month  
11 -- it would be of a higher priority potentially than,  
12 say, the human resource system that identified the  
13 people who worked for R. J. Reynolds Tobacco Company.

14 The team is identified in combination with  
15 the application areas and the technical support areas  
16 to be the disaster recovery team. That plan is usually  
17 tested in connection with a third party which is one of  
18 the services that are provided by someone else other  
19 than internally to actually implement a subset for  
20 ensuring that we can recover the business operation.

21 Q. Who is Reynolds' disaster recovery  
22 provider?

23 A. IBM.

24 Q. Mr. Martin --

25 A. Excuse me. Additionally, there is a

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1 similar arrangement but with Digital Equipment Company,  
2 the other major vendor that we do utilize.

3 Q. Mr. Martin, has Reynolds restored any data  
4 from a backup tape within the last two years?

5 MS. BIXENSTINE: Objection.

6 A. Please, one more time.

7 Q. Sure. Has Reynolds restored any  
8 information from a backup tape within the last two  
9 years?

10 MS. BIXENSTINE: I object to the form of  
11 the question. If you understand it, you can answer it.

12 A. I stated earlier that one of the  
13 categories was operational interruption for recovery  
14 for the short term. That has occurred, such as a power  
15 failure, on a DASD device. The daily backup was, in  
16 fact, utilized as its intended purpose is to restore  
17 operations.

18 Again, it's a very complex question, and  
19 utilizing of backups is not an unusual occurrence as  
20 opposed to disaster recovery. That information is not  
21 as frequent. But to utilize daily backups to correct a  
22 potential software error or hardware error is  
23 definitely not uncommon and is a requirement to support  
24 the business.

25 Q. With respect to the DASD backup, I assume



1 the restoration was successful? There was no problems?

2 MS. BIXENSTINE: You're talking as if it  
3 was one specific incident, and I don't think that was  
4 his testimony.

5 MR. JANECEK: In general.

6 MS. BIXENSTINE: I object to the form of  
7 the question.

8 A. Please once more if you would repeat the  
9 question?

10 Q. Sure. You testified that on more than one  
11 occasion Reynolds has restored information from its  
12 DASD system. Were there any problems with doing so?

13 MS. BIXENSTINE: Objection to the form of  
14 the question.

15 A. I had indicated that in the example that  
16 Reynolds uses the backup tapes to restore information  
17 to a DASD as opposed to the way you described it. That  
18 is successful and normally should be. That is not to  
19 imply it was not difficult. Some situations are  
20 significantly more difficult than others, but, again,  
21 that is the purpose of retaining information and for  
22 backup. It's business requirement and operational  
23 recovery in the event of something that would interrupt  
24 the normal process.

25 Q. Other than restoring to DASD, has Reynolds

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1 restored any information to its other systems within  
2 the last two years?

3 MS. BIXENSTINE: Objection to the form of  
4 the question.

5 A. DASD is utilized to support the other  
6 systems. The way I understand the question is that we  
7 do -- DASD itself is not a system as opposed to an  
8 application running the business, and Reynolds does --  
9 R. J. Reynolds Tobacco Company does utilize information  
10 that is stored on media such as tapes. That is done  
11 for the purposes of operational recovery in the event  
12 of a problem that potentially would occur or does occur  
13 to make sure we can, in fact, recover and not lose  
14 information that is more current information than the  
15 archival information that you referred to earlier  
16 simply because that's the reason you take daily backups  
17 which amount to daily -- there's over -- over 21,000  
18 tapes are utilized each day for the purposes of backing  
19 up in the event of a particular failure of some type.

20 We would love to say it would never occur,  
21 but that does occur. Things do break, both software  
22 and hardware-wise, and that's the reason that we do the  
23 backup of information and particularly of the daily  
24 backup; and it does reinstate the business to closest  
25 to the opportunity window because we do that daily as

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1 we possibly can.

2 Q. You said it's more difficult or it can be  
3 difficult to restore information from a backup tape.  
4 Can you describe the resources required?

5 MS. BIXENSTINE: Objection.  
6 Mischaracterizes the witness's testimony. Go ahead.

7 A. That is not what I said. What I said was  
8 that restoring the business is sometimes more  
9 difficult. The process of moving information from one  
10 medium to another is an ongoing process that occurs.  
11 So the ability to move that information from whatever  
12 medium you have it stored on to use is an ongoing  
13 thing.

14 Bringing the business or meeting the  
15 business requirements -- and that's usually application  
16 and could be one of the thousands of programs under one  
17 of the 250 different applications -- sometimes could be  
18 more difficult than at other times due to the nature of  
19 a problem that did occur.

20 We have never intentionally destroyed  
21 systems or tried to make it difficult. It is not a  
22 planned event. We do try to prevent it, and that's the  
23 reason for the backups and then restoring it. It's not  
24 something like a disaster recovery plan where we can  
25 plan that window to go test. This is business

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1 operation recovery.

2 Q. Mr. Martin, has any program been used to  
3 permanently wipe files -- any utilities programs?

4 MS. BIXENSTINE: Objection. Asked and  
5 answered.

6 A. Repeat the question one more time, please.

7 Q. My question is whether Reynolds has used  
8 any utility program to wipe files which is different  
9 than overwriting them? Norton Utilities or --

10 MS. BIXENSTINE: Objection. You already  
11 asked about purging files.

12 MR. JANECEK: Purging and wiping are not  
13 necessarily the same thing.

14 MS. BIXENSTINE: Could you explain the  
15 difference, please?

16 MR. JANECEK: Purging is totally  
17 destroying the file, whereas, the wiping is just wiping  
18 the information from it.

19 MS. BIXENSTINE: Objection to the form of  
20 the question. If you understand it, Marvin, go ahead.

21 A. I'm not -- the general nature of the  
22 question -- information is, in fact, overwritten and  
23 is, in fact, purged; and as I indicated, we do use  
24 programs to do that. We do it in the course of  
25 management of information. There needs to be a

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1 business reason to occur. As a practice of a to-do  
2 just to have somebody do something, that is not. If  
3 that occurs, it occurs because that information is no  
4 longer of value. That means that the medium we want to  
5 do it on is -- can be potentially reused, but it is not  
6 -- it's not done for any other reasons except to  
7 support the business operation itself.

8 Q. I understand. I'm just trying to get  
9 Reynolds' capabilities, and Norton Utilities has for  
10 example a wipe function. In the example where you're  
11 going to reuse a hard drive, does Reynolds wipe the  
12 hard drive before they reinstall them for some other  
13 use?

14 A. I personally -- I do not know the answer  
15 to that question.

16 Q. What about optimization programs or  
17 defragmenting programs, does Reynolds use any of those?

18 A. Yes.

19 Q. What types of programs does Reynolds use?

20 A. The specific programs, I do not recall.

21 Most of such programs are associated with the  
22 management of information where you can consolidate and  
23 utilize space, a contiguous space or noncontiguous  
24 space, depending on the type of program, for the  
25 efficient retrieval and reuse such as in the example of

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1 the DASD management.

2 There is a software that does specifically  
3 that, and that's what it's called is storage  
4 management. SMS is the common term that is referred to  
5 as storage management systems, and its whole purpose is  
6 to manage storage space.

7 Q. So that's pretty routine to optimize or  
8 compress disks?

9 MS. BIXENSTINE: Objection to the form of  
10 the question. It's also compound.

11 A. Please restate the question. I want to  
12 make sure I'm answering your question.

13 Q. Sure. In utilizing its disk space or  
14 storage space, does Reynolds routinely optimize or  
15 compress the space?

16 MS. BIXENSTINE: Are you using optimize  
17 and compression as synonymous?

18 MR. JANECEK: No.

19 MS. BIXENSTINE: Objection. Compound.

20 A. With regard to optimization, that does  
21 occur. With regard to compression, that also occurs  
22 for the purposes of storage management. Some  
23 applications and some software does that automatically,  
24 and that's purchased software that's shrink wrapped.  
25 They do that for, again, efficiency reasons. That's

1 usually why it is done.

2 Optimization for all categories is an  
3 objective that we strive for to get optimum performance  
4 while still maintaining the integrity and the validity  
5 of the information that we are, in fact, managing; and  
6 that is applicable to all the applications that support  
7 the business.

8 And so depending on the environment,  
9 digital versus IBM versus PC, generic things such as  
10 optimization and compression as a normal part of the  
11 routines does, in fact, occur and should occur for any  
12 operation that is cost conscious. To be cost  
13 conscious, you need to do that.

14 Q. Mr. Martin, with respect to outside  
15 companies, do any of Reynolds' sister companies have  
16 access to the R. J. Reynolds Tobacco Company computer  
17 systems?

18 MS. BIXENSTINE: By sister companies, do  
19 you mean affiliates?

20 MR. JANECEK: Affiliates.

21 A. And could you clarify access for me,  
22 please?

23 Q. Can they retrieve information or run any  
24 software program?

25 MS. BIXENSTINE: Objection to the form.

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1 If you understand it, you can answer it.

2 A. With some of our affiliates, we do have  
3 electronic connections. That means it is the  
4 capability to pass information back and forth between  
5 two locations. That does not mean that anyone at  
6 either locations has the capability to access all the  
7 information or even part of it that is available at  
8 either location.

9 So there is electronic connections, and  
10 information does pass back and forth between those  
11 locations, and information at one location might be  
12 provided specifically for receipt at the other  
13 location, but the ability to go in and view everything  
14 in every instance is not there or is not granted. And  
15 that's in the process of -- information access is  
16 granted on an individual business need basis.

17 The most common exchange of information  
18 between R. J. Reynolds Tobacco Company and our  
19 affiliates would be of the electronic mail messaging  
20 variety, but that doesn't mean I could see the mail  
21 messages if I was the one granted access at R. J. R. to  
22 that -- that I could see the mail messages of whoever  
23 generated and returned. I could send someone a mail  
24 message even though physically they were not here in  
25 Winston-Salem.

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1 Q. Other than the electronic mail, what other  
2 types of accesses are there? Do they have access to  
3 databases?

4 MS. BIXENSTINE: Are you talking about all  
5 the affiliates?

6 Q. Affiliates. We'll get to identifying them  
7 when we get done, but what types of accesses do  
8 affiliates have?

9 A. Again, I distinguish electronic connection  
10 from access. The access to my knowledge that is  
11 available is very high level summary financial  
12 information as opposed to accesses to individual or  
13 specific databases within the realm. That is not a  
14 normal occurrence or a need to know.

15 As an example, I could not see databases  
16 within another affiliate if I was the party. I might  
17 be required to know what some of the high level  
18 aggregate summary information regarding that particular  
19 company would, in fact, be, but as far as a detailed  
20 access to a database, that is not the normal  
21 occurrence.

22 Q. Would these affiliates have their own  
23 computer systems or would they share the Reynolds  
24 systems?

25 MS. BIXENSTINE: Objection to the form of

1 the question.

2 A. Are you referring to the current time  
3 frame?

4 Q. Yes. Current time frame.

5 A. The affiliates have, in fact, their own  
6 individual systems that support their business. If, in  
7 fact, there would be a need to run somewhat of what is  
8 referred to as common systems across the corporation,  
9 that is technically feasible but is no longer the  
10 practice within R. J. Reynolds Tobacco Company and its  
11 affiliates.

12 We do provide some degree of service,  
13 meaning that we support -- information resources  
14 supports them in making that connection or making that  
15 available and that physically the affiliates'  
16 information might run on R. J. Reynolds' computer, but  
17 it's being accessed by the affiliates people.

18 An example would be the personnel system,  
19 and access from an affiliate is only to their  
20 information, not that they could access R. J. Reynolds  
21 Tobacco Company information, but it all might be under  
22 one umbrella of a personnel system.

23 Q. You mentioned E-mail earlier. Which  
24 affiliates have E-mail capabilities with R. J.  
25 Reynolds?

1           A.       We have E-mail capabilities with most all  
2 of our affiliates, but that does not mean that we have  
3 E-mail capability to all locations of all affiliates  
4 within the Reynolds family. It's --

5           Q.       What about R. J. R. Nabisco, do they have  
6 E-mail capabilities with R. J. Reynolds Tobacco?

7           A.       R. J. R.?

8           Q.       Nabisco, the parent.

9           A.       Meaning the parent corporation, yes, they  
10 do.

11          Q.       What about R. J. R. Tobacco Worldwide, do  
12 they have E-mail capabilities with R. J. Reynolds  
13 Tobacco?

14               MS. BIXENSTINE: Objection to the form of  
15 the question. There is no R. J. Tobacco Worldwide.

16          A.       Could you clarify what --

17               MR. JANECEK: I'm not sure of their  
18 current incarnation. I know they're going through  
19 changes, but it was Worldwide Tobacco -- R. J. R.  
20 Worldwide.

21               MS. BIXENSTINE: That's not a company.  
22 It's never been a company. Do you mean R. J. Reynolds  
23 Tobacco International?

24               MR. JANECEK: Actually, Worldwide was the  
25 one I was -

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Worldwide.

A. The Worldwide -- I'm not sure what  
affiliate that you're referring to, but we do have with  
R. J. Reynolds Tobacco Company International.

Q. Do you have E-mail with International?

A. Yes, we do. But there, again, that does  
not mean every location of International within that --  
people within that organization or -- the key  
management as an example, that would be true, but I do  
not mean to imply that throughout the International --  
I mean, E-mail is not necessarily throughout everybody  
that's within the R. J. Reynolds Tobacco Company as  
well.

Q. For those individuals that have access to  
a terminal, if they leave the company, are their  
individual directories purged?

MS. BIXENSTINE: Objection to the form of  
the question. If you understand it, you can answer.

A. I'm not sure I understand it.

Q. Some individuals --

A. I understand the leaving part.

Q. Some individuals at R. J. Reynolds have  
access to a terminal; is that correct?

A. That's correct.

C O N F I D E N T I A L

1 Q. If they leave the company for whatever  
2 reason, are the files on that terminal or in that  
3 individual's directory, are those files purged when  
4 they leave?

5 MS. BIXENSTINE: Are you talking about the  
6 E-mail files or --

7 MR. JANECEK: All files. Word processing,  
8 E-mail.

9 MS. BIXENSTINE: Do you mean information  
10 that hasn't been uploaded to the mainframe?

11 MR. JANECEK: Well, maybe I'm assuming  
12 that individuals have their own directory.

13 Q. Do individuals that have terminals have an  
14 individual directory?

15 A. In some instances, that is the case.

16 Q. Can you tell me what instances they would  
17 have an individual directory?

18 A. Usually when they choose to keep  
19 information on their terminal for, again, business  
20 purposes.

21 Q. For those individuals that would choose to  
22 keep information on their terminal, if they leave the  
23 company, are their individual directories purged?

24 A. That's a complex question. The process of  
25 someone leaving is in that process if they, in fact,

1 have a terminal, then it is a matter of talking to that  
2 individual, securing the information, and transferring  
3 the information that's appropriate to as an example,  
4 their successor, if that's the case, or to another  
5 individual that maybe will be assuming their  
6 responsibilities or job functions.

7           Once that occurs of the transfer of the  
8 appropriate information, then the devices would, in  
9 fact, be collected for redeployment just like their ID  
10 card, their keys, their credit cards would be collected  
11 and their access that they had to even get the  
12 information if it came from one of the major systems  
13 would be terminated. Once that process has, in fact,  
14 occurred, then information could be cleared for  
15 redeployment and not to have it followed because of  
16 just business complexity with the equipment as that  
17 terminal or PC moves from Body X to Body Y. It could  
18 go to another entire department.

19           Q.       Once the steps have been taken and the PC  
20 is ready for redeployment, prior to redeployment, would  
21 any hard disks or disk space be reformatted?

22           MS. BIXENSTINE: Objection. Asked and  
23 answered.

24           A.       Again, in the process of redeployment in  
25 utilizing of that asset, once the information is

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1 transferred to the appropriate, it is very much a  
2 requirement or it couldn't be redeployed because it  
3 would have to be configured for that same job function  
4 which is not necessarily what it's going to be. That  
5 does occur.

6 Q. Mr. Martin, I want to talk a little bit  
7 about the database management systems at R. J.  
8 Reynolds. Can you tell me the types of databases that  
9 Reynolds typically uses?

10 A. I'm not sure I understand.

11 Q. Does Reynolds use flat file databases?

12 A. Yes, we do.

13 Q. What about relational databases?

14 A. Yes, we do.

15 Q. Any other types of databases that Reynolds  
16 uses?

17 A. There are some databases that are PC  
18 oriented. Spread sheets come with their own database.  
19 Certain purchased software that is made available does  
20 have small subsets of databases to use in connection  
21 with that particular software in meeting its  
22 functionality.

23 Q. What types of software does Reynolds use?  
24 Does it use R:Base?

25 A. I'm sorry, I'm not familiar with that.

1 Q. R:Base?

2 A. No, I am not.

3 Q. What about dBase?

4 A. DBase, yes.

5 Q. Advanced Revelation?

6 A. I'm not familiar with that.

7 Q. What other types of software -- what  
8 software does Reynolds use?

9 A. Software with --

10 Q. Commercial software in relationship to the  
11 database.

12 A. We use a digital product that is RDB. We  
13 use the IBM -- the DB2 too. We use a database referred  
14 to as Access, and those are -- we use -- Adabase is one  
15 of the larger ones, and that's both for the IBM and  
16 digital environments. Those are the main databases  
17 that come to mind with regard to database management.

18 Q. Did Reynolds design any proprietary  
19 software for database management or did they pretty  
20 much use these that you've identified?

21 A. I'm sorry, I'm not sure I know whether we  
22 did proprietary database management software. There  
23 were some things that we did to customize those  
24 utilizations, but it was within using the functionality  
25 of the database management software itself, not

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1 rewriting of a database management system.

2 Q. Okay. Is there any one individual that  
3 would be, besides yourself, responsible for the  
4 database systems?

5 MS. BIXENSTINE: Objection to the form of  
6 the question.

7 A. My key direct report who has the  
8 responsibility for database management as a functional  
9 area is Mr. Tom Beasley in the technical support arena.

10 Q. How are user requests made for database  
11 access? Would that go through Mr. Beasley?

12 MS. BIXENSTINE: Objection to the form of  
13 the question.

14 A. Could you clarify that, please?

15 Q. Sure. Well, let's back up. If one of the  
16 departments wanted access to a database, what would  
17 they do?

18 A. That is the part of the process that I  
19 described earlier with regard to password and access.  
20 Access to information is granted in connection with  
21 data owners on a need-to-know basis and to support  
22 business requirements. That's when the access is  
23 requested. And that request is forwarded through the  
24 data administration security arena and in connection  
25 with the applications personnel, which would be where

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1 that database is maintained, if you would -- of why  
2 it's there is to support an application is in essence  
3 -- would be granted.

4 Then the functionality that they would  
5 require to support the business would be clarified, and  
6 even within that particular area that they're  
7 requesting access for, the access to information within  
8 that particular area could vary. They could need to  
9 know and need to utilize pieces of it, but other  
10 sections of it might be totally inappropriate.

11 So once that process goes through, then  
12 they are, in fact, assigned an identification to an  
13 access ID that they must use in connection with a  
14 password and in connection with being an authorized  
15 user of information that is granted by the data owner.

16 Q. Who would the data owners be? Is that  
17 someone within Reynolds or are those third parties?

18 A. By Reynolds, you mean R. J. Reynolds  
19 Tobacco Company?

20 Q. Correct.

21 A. A general question that gets a bit more  
22 complex. Data owners normally are within R. J.  
23 Reynolds Tobacco Company, but they could be within an  
24 affiliate. Remember I stated about E-mail being -- you  
25 can't -- between E-mail systems that are currently in

1 place, you can't do that without someone on the other  
2 end saying it's okay for you to do that.

3 So there could be outside of Reynolds  
4 Tobacco Company someone that would grant access saying  
5 it's okay for us to pass. You get permission to pass  
6 certain information back and forth. But for the most  
7 part, they are within R. J. Reynolds Tobacco Company,  
8 and they vary throughout the functional organization  
9 and are functionally driven by the various applications  
10 whose primary function it is to use that particular  
11 system.

12 As an example, finance people and various  
13 people within finance, depending on whether it's  
14 general ledger, accounts payable, credits receivable,  
15 would be data owners to grant access to individuals who  
16 need to have access to the information even though  
17 their primary function might be something that is  
18 different.

19 Q. Does Reynolds subscribe to any databases  
20 outside of R. J. R. Tobacco and its affiliates -- a  
21 totally external third party?

22 MS. BIXENSTINE: Objection to the form of  
23 the question. I think your question assumes that  
24 Reynolds subscribes to databases owned by the  
25 affiliates, and I don't believe that's what he

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1 testified to. Assumes facts not in evidence.

2 MR. JANECEK: Your assumptions are  
3 incorrect. I'm just trying to find locations of  
4 databases that Reynolds has access to.

5 MS. BIXENSTINE: So the question is, Does  
6 Reynolds subscribe to any databases owned by third  
7 parties?

8 MR. JANECEK: (Counsel nods head.)

9 MS. BIXENSTINE: Let the record reflect  
10 that Mr. Janecek is nodding his head yes.

11 A. Could you repeat the question?

12 Q. Does Reynolds have access or employees of  
13 Reynolds have access to databases outside of Reynolds  
14 or its affiliates?

15 MS. BIXENSTINE: Objection to the form of  
16 the question.

17 A. Again, that's a complex question. Third  
18 parties do provide services for certain functions. An  
19 example would be that the U.S. Navy has a best practice  
20 manufacturing database. By virtue of information  
21 resources being affiliated with that group, we do have  
22 access to that.

23 Gartner Group is an information technology  
24 provider, and they have certain information that we  
25 could, in fact, have access to, but it is granted and

1 very limited. It does not mean that we have access to  
2 items that run the corporation. There are services  
3 that are, in fact, available and do business for that  
4 sole purpose, to provide information, and sometimes  
5 that occurs electronically, and that does occur.

6 I mean, those are two examples that, Navy  
7 and the Gartner Group, where we do have the capability  
8 to get at certain information, but it's usually of a  
9 technical nature or a general business nature as  
10 opposed to the operation of Gartner Group or the U.S.  
11 Navy.

12 Q. With respect to those databases that are  
13 owned by Reynolds, not affiliates, do you know what  
14 sources of information were available to create those  
15 databases?

16 MS. BIXENSTINE: Objection to the form of  
17 the question.

18 A. Would you clarify? I'm not sure I  
19 understand.

20 Q. Well, let's back up, and then we'll take  
21 one for example. Can you identify for me the types of  
22 databases -- the owners of databases that Reynolds has  
23 or that would be within Reynolds as opposed to its  
24 affiliates?

25 MS. BIXENSTINE: Objection to the form of

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1 the question.

2 A. As I understand the question, it is, "Can  
3 I identify the data owners within R. J. Reynolds  
4 Tobacco Company?" And the answer is, yes, I can  
5 identify data owners within Reynolds Tobacco Company.

6 Q. How many data owners are there?

7 A. The exact number, I do not recall, but  
8 it's in excess of 250-some.

9 Q. Would there be a tracking database --  
10 tracking of purchases of cigarettes?

11 MS. BIXENSTINE: Objection to the form of  
12 the question. You mean purchases at the retail level?

13 MR. JANECEK: Yes.

14 A. Would you define tracking for me, please?

15 Q. Who purchases cigarettes. The number of  
16 cigarettes that were purchased. Information about the  
17 purchase of cigarettes.

18 A. With regard to purchases at retail --  
19 tracking every person who purchases at retail in every  
20 retail store, R. J. Reynolds Tobacco Company does not  
21 do that.

22 Q. All I'm trying to do is get an example of  
23 a database so that I can achieve an illustration of how  
24 the database works at Reynolds. What about sales of  
25 cigarettes as opposed to purchase?

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1 MS. BIXENSTINE: At the retail level?

2 MR. JANECEK: Well, this would be, I  
3 suppose, sales too if you can't track purchases.

4 A. Would you repeat the question?

5 Q. Is there a sales database?

6 A. Sales, meaning cigarette sales?

7 Q. Cigarette sales, yes.

8 A. As a general category, there are. That's  
9 not all sales to every location at every level of the  
10 business chain.

11 Q. Using the sales database as an example,  
12 where --

13 MS. BIXENSTINE: What sales database are  
14 you talking about?

15 MR. JANECEK: The one he just identified.

16 MS. BIXENSTINE: He didn't identify a  
17 specific database.

18 Q. There's a sales database?

19 A. There are sales databases that are for  
20 various functions that track the sales that I responded  
21 that there were sales databases. But it does not track  
22 every -- or databases for every level of the business  
23 chain as you go from manufacturer to consumer.

24 Q. How many sales databases are there?

25 MS. BIXENSTINE: Objection to the form of

1 the question.

2 A. Define sales for me, please.

3 Q. Sales of cigarettes.

4 MS. BIXENSTINE: Do you mean sales by  
5 Reynolds to its distributors or sales to individual --

6 MR. JANECEK: Sales of Reynolds  
7 cigarettes.

8 MS. BIXENSTINE: I objection to the form  
9 of the question. There are sales by Reynolds to its  
10 distributors which we've talked to you about numerous  
11 times. There are sales by distributors to its  
12 customers. There are sales by retail locations to  
13 individual consumers. Which sales are you talking  
14 about?

15 MR. JANECEK: Any or all of which may be  
16 the subject of a database.

17 Q. In the broad category of databases, how  
18 many databases does Reynolds maintain?

19 MS. BIXENSTINE: I object to the form of  
20 the question.

21 A. I do not know the exact number. There are  
22 databases that vary depending on the function that is  
23 being supported, and there are databases applicable to  
24 the sale of cigarettes from R. J. Reynolds Tobacco  
25 Company's perspective of who sells to distributors as

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1 an example.

2 Q. Could you approximate the number of sales  
3 databases?

4 MS. BIXENSTINE: Objection to the form of  
5 the question.

6 A. To the best of my knowledge, databases  
7 that are primary databases that are utilized within  
8 Reynolds Tobacco Company, meaning those that are  
9 mainframe based in the large information that we would  
10 track to support the business, those to the best of my  
11 knowledge would be less than 10.

12 Q. Is Marlin a sales database?

13 A. Marlin is a system that has a database.  
14 Marlin is the system.

15 Q. Okay. Would Marlin just have sales  
16 databases?

17 MS. BIXENSTINE: Objection to the form of  
18 the question.

19 A. Again, the general reference to sales  
20 databases is confusing to me, and I'm not sure how to  
21 respond to that.

22 Q. Why don't you identify the approximate 10  
23 sales databases that you're aware of?

24 A. There is a database associated with R. J.  
25 Reynolds Tobacco Company's movement and sale of product

1 from our location to our distributors. There are  
2 databases associated with R. J. Reynolds product  
3 movement from our distributors to retail. There are  
4 databases that are associated with the financial  
5 billing of the first item I referenced, and that's  
6 sales to distributors.

7 There are databases associated with the  
8 consumption or market share of product to support  
9 Marlin which is oriented toward the consumer as opposed  
10 to the distributor, but it is different from the  
11 database from the distributor in the event that one is  
12 a statistical sample versus the other being uniquely  
13 identified to each distributor.

14 Q. Which one is the statistical sample?

15 A. Marlin is the statistical sample. There  
16 are databases associated with the presentation of R. J.  
17 Reynolds Tobacco Company sales within an application  
18 such as the management reporting system. Those are all  
19 the major ones that come to mind right now.

20 Q. Taking the consumption market share  
21 databases for illustrative purposes, what would be the  
22 source information -- the source of that information  
23 for that database, if you know?

24 A. Say that again, please.

25 Q. With respect to the consumption or market

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C O N F I D E N T I A L

1 share database you identified, what would be the source  
2 of the information for that database, if you know?

3 MS. BIXENSTINE: Objection to the form of  
4 the question.

5 A. To the best of my knowledge, the source of  
6 that information is the statistical sample of retail  
7 stores.

8 Q. And how would that information be inputted  
9 into the database?

10 MS. BIXENSTINE: Objection to the form of  
11 the question.

12 A. Market share information to support Marlin  
13 is provided through a third party. Marlin is a highly  
14 proprietary R. J. R. system that is oriented toward the  
15 market share at retail as opposed to sheer shipment of  
16 product to a distributor.

17 The third party provider establishes a  
18 statistical sample that would represent R. J. Reynolds  
19 sales geographies which is the way we are organized  
20 within the sales department is geographically, and they  
21 provide that information electronically to R. J. R.,  
22 and we load that information to that database.

23 It is information that the third party has  
24 accumulated. We would not know the location of the  
25 retail stores, their identity, or -- it's a statistical

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1 sample that's extrapolated from the U.S. or for the  
2 various geographies.

3 Q. Still using Marlin as an illustration, who  
4 would the users of -- is there any way to determine who  
5 the users of the Marlin system would be?

6 MS. BIXENSTINE: Objection to the form of  
7 the question. Any way electronically?

8 MR. JANECEK: Any way that Reynolds can  
9 tell who uses the Marlin system.

10 MS. BIXENSTINE: You mean other than going  
11 around and asking?

12 MR. JANECEK: Yes.

13 A. Again, as I indicated, we do keep up with  
14 who has access. Doing a summary listing of everyone  
15 who has access is not a standard practice. Is it  
16 technically feasible, and it would be burdensome to do  
17 that. Yes, it can be done, and it would be burdensome  
18 because it's not the normal process that we use to  
19 support the business.

20 Q. How many hundreds of hours would it take  
21 to generate a program to create that list?

22 A. I truly -- I don't have a good feel other  
23 than the estimate that I told you before with regard to  
24 the number of people and several days to be able to do  
25 that.

1 Q. What about output from the database, are  
2 there printed reports?

3 MS. BIXENSTINE: Objection to the form of  
4 the question. What output from what database?

5 MR. JANECEK: Usually you make an inquire  
6 and the information comes out of a database.

7 MS. BIXENSTINE: What database?

8 MR. JANECEK: Marlin.

9 MS. BIXENSTINE: He said Marlin was the  
10 system, not a database.

11 MR. JANECEK: The consumption market  
12 share. He's been using them interchangeably between  
13 Marlin, but the consumption market share -- the  
14 database we've been talking about.

15 MS. BIXENSTINE: He mentioned that there  
16 were multiple databases for consumption and market  
17 share, so I still am not clear about what database  
18 you're talking about.

19 A. Our normal reference to uses and users who  
20 utilize the technology is by systems as opposed to a  
21 database. A database is an element of a system. The  
22 application itself as opposed to the database is what  
23 is informative and supports the business.

24 So it is uncommon for us to refer to  
25 business functions by using database. We would use a

1 Marlin as an example which is our market share system  
2 that is oriented toward retail consumption.

3 MS. BIXENSTINE: If you want to see an  
4 example of a report, we've produced an exemplar if that  
5 would shortcut this.

6 MR. JANECEK: We'll get there.

7 Q. What types of output are available from  
8 the Marlin system? Written reports?

9 A. Yes.

10 Q. On-line responses?

11 MS. BIXENSTINE: Objection to the form of  
12 the question.

13 A. Clarify responses.

14 Q. Sure. Someone is going to type in a  
15 request for information from a database on Marlin. It  
16 will either be generated in the form of a written  
17 report -- and you have produced an example of that I  
18 understand from your counsel. Are there also on-line  
19 on-screen responses from the database available?

20 A. You can view information on-line.

21 Q. Are there any other types of output from a  
22 Marlin-type database?

23 MS. BIXENSTINE: Objection to the form of  
24 the question. If you understand it, you can answer it.

25 A. To the best of my knowledge, the two

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1 common outputs are hard copy oriented or on-line  
2 viewing, and the hard copy could take various forms,  
3 but it's -- it could be a graph as an example. So the  
4 most common outputs that are available are really  
5 on-line and batch oriented which is the hard copy.

6 Q. Are on-line responses stored in any way?

7 MS. BIXENSTINE: Responses to inquiry as  
8 opposed to the information?

9 MR. JANECEK: That's correct.

10 A. That's a very complex question. On-line  
11 viewing -- if you're going to view something on a  
12 screen, it is set up by a series of code statements  
13 that, in fact, are stored. If you make a second  
14 request, then that information could no longer be  
15 available. Both requests would be referred to as  
16 transactions, and we refer to the on-line viewing or  
17 on-line request as transaction processing oriented and  
18 information that's in transit.

19 With regard to daily transactions as an  
20 example, Reynolds Tobacco Company has about 160 million  
21 of those transactions during the course of a day of  
22 business operations. At any milli or nanosecond that  
23 is involved, that information is stored, but it is not  
24 necessarily stored forever because it's not pertinent.

25 The capability of on-line viewing would,

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1 in fact, allow you to come back and view that again  
2 because the capability is there, or if you needed it  
3 for something else, that you could have it generated in  
4 hard copy form.

5 So in response to your question, yes, it  
6 is stored, but I don't want to imply we store -- that  
7 R. J. Reynolds Tobacco Company stores in home some  
8 media of every transaction that occurs every  
9 millisecond of every day. It is just not prudent to do  
10 that, and it's not required.

11 The critical information is, in fact,  
12 stored. The in-process information that generates a  
13 result is stored but only temporarily, and once that  
14 has passed, it might be very difficult to retrieve that  
15 information if I wanted to do that. Not do the process  
16 again, but to retrieve that particular bit of  
17 information that made that particular on-line viewing  
18 at that point in time doable.

19 Q. If it's stored anywhere, it's stored on  
20 the backup tapes; is that correct? Is that what I'm  
21 understanding you to mean?

22 MS. BIXENSTINE: Objection to the form of  
23 the question.

24 Q. We have vigorous shaking of the head by  
25 defense counsel, so obviously I've misunderstood what



1     you said.

2             A.       It is not necessarily -- it could be in  
3     DASD as an example as opposed to backup tapes. The  
4     backup process was more oriented toward tape, and it's  
5     something that could be recycled as opposed to in  
6     process.

7                     What I was referring to is nothing more  
8     than the in-process coding and exchanging of bits and  
9     bytes that makes that on-line viewing and that report  
10    or that screen or that graph appear on whatever  
11    terminal that -- or a terminal that we're talking about  
12    in general, and it is in memory, but it is not -- that  
13    memory is not necessarily spooled off for every  
14    transaction of every millisecond of every day and put  
15    into a tape or a backup mechanism.

16            Q.       Mr. Martin, I want to turn to the  
17    documents you produced now.

18                    MS. BIXENSTINE: Maybe this is a good time  
19    for a short break.

20                               (Recess taken from 2:50 to 3:00  
21                               p.m.)

22                    MS. BIXENSTINE: While we were off the  
23    record, the court reporter mentioned to us that she did  
24    not feel comfortable leaving a blank in the transcript.

25                    MR. JANECEK: I object to that

1 characterization. She had not done that before is what  
2 she said.

3 MS. BIXENSTINE: She told me she didn't  
4 feel comfortable, but she said that she has never  
5 before left a blank in a transcript and did not know if  
6 she should do that since she has to notarize what she  
7 has heard, and this would be information that she  
8 hasn't heard.

9 So I think that this is not an appropriate  
10 procedure, and I have suggested to plaintiff's counsel  
11 that he simply serve R. J. Reynolds Tobacco Company  
12 with an interrogatory seeking the information that he's  
13 looking for. So Reynolds objects to leaving a blank in  
14 the transcript.

15 MR. JANECEK: The plaintiff's position is  
16 that the blank should be left, and if the deponent can  
17 provide the information, he's capable of doing it, and  
18 the court reporter will notarize it once the change is  
19 made by the deponent or inserted in the blank. We do  
20 this all the time if someone has forgotten a name or  
21 identity or list of things.

22 MS. BIXENSTINE: I think forgetting a name  
23 is substantially different and distinguishable from the  
24 situation we have here where you have asked for a  
25 listing of backup software for 250-some-odd systems

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1 employed by Reynolds. I think it's totally different,  
2 and I object to that.

3 MR. JANECEK: Your option is not to fill  
4 in the blank should you so choose, and the blank can  
5 stay in the depo transcript.

6 MS. BIXENSTINE: Okay. Let's proceed.

7 BY MR. JANECEK:

8 Q. Mr. Martin, you have produced several  
9 documents today in response to Schedule B of the  
10 deposition notice which was previously marked as  
11 Exhibit 1 to this deposition transcript. Look briefly  
12 over those.

13 A. (Witness reviews document.)

14 Q. Category 1(a) asks for exemplars of the  
15 different types of reports or other documents that can  
16 be generated by Reynolds depicting the identity and  
17 location of retail stores that sell or sold Camel  
18 cigarettes in California.

19 It appears you produced four sets of  
20 documents responsive to that request. Can you have the  
21 court reporter mark as Exhibit 2 to the deposition  
22 documents containing the first redwell that you have  
23 produced which is entitled R. J. R Sales Regions?

24 (The documents referred to were  
25 marked as Plaintiff's Exhibit 2 for

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identification, and attached to and made a  
part of this deposition.)

BY MR. JANECEK:

Q. Can you describe for me what this document  
is?

A. R. J. Reynolds Tobacco Company organizes  
its sales force into geographic areas. This first  
document is a map of the United States which is  
color-coded to the various sales regions and indicates  
the geography that is indicated by or covered by each  
one of the sales regions that is the current structure  
of our sales force.

Q. How does this relate to retail stores that  
sell Camel cigarettes in California?

A. Our systems and information technology and  
processing are oriented to support the business, and  
it's the business according to the way R. J. Reynolds  
Tobacco Company operates that the requests was for --  
with regard to specifically California and all cases,  
we do not have information that would be specifically  
within the state of California.

An example would be you see that more than  
one of our regions is involved in supporting the state  
of California, therefore, all systems do not have the  
sales geography or are totally oriented within the

1 state boundaries of the state of California. They're  
2 there to support the business as we are trying to  
3 enhance and improve which is oriented toward our sales  
4 geography as opposed to a particular state.

5 Some level of detail is available at the  
6 state level. All of the information is not necessarily  
7 presented in that manner. We do not capture that level  
8 of detail because it's not beneficial.

9 Q. Are the sales regions identified or  
10 depicted on Exhibit 2 -- are these regions drawn from  
11 information from which Reynolds is the source or does  
12 this also encompass information from the third party  
13 who you identified as doing statistical compilations  
14 from Marlin?

15 MS. BIXENSTINE: Objection to the form of  
16 the question.

17 A. Could you please clarify?

18 Q. Sure. Earlier you testified that a third  
19 party compiles market share information for the Marlin  
20 system; is that correct?

21 A. They collect information which is used in  
22 connection with Marlin.

23 Q. Could you identify that third party for  
24 me?

25 A. The third party is IRI, and I believe that

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1 stands for Information and Resources, Incorporated.

2 Q. The regions that are depicted on Exhibit  
3 2, are those drawn from information provided by IRI or  
4 the other databases that you previously identified  
5 tracking the movement of cigarettes from Reynolds to  
6 its distributors to its retailers?

7 MS. BIXENSTINE: Objection to the form of  
8 the question. I think you've got it backwards.

9 A. The identification of regions depicted on  
10 this map are done from R. J. Reynolds Tobacco Company's  
11 business perspective. That would determine the  
12 geography. It's a combination of manpower, a  
13 combination of areas that are logically or logical to  
14 put together from our perspective. A third party such  
15 as IRI would utilize our geographies to determine where  
16 to do the statistical sample as opposed to vice versa  
17 which you had described.

18 Q. Mr. Martin, I'm going to hand to you a  
19 document which I'll have the court reporter mark as  
20 Exhibit 3 to the deposition. It looks to be entitled  
21 California Master Account List Active By Account Name  
22 with a 12/09/95 date signature on the top right-hand  
23 corner. Can you describe for me what this document is?

24 A. This document is from the sales  
25 information system that is utilized to support our

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1 sales organization and is a listing of retail locations  
2 that R. J. Reynolds Tobacco Company calls on.

3 This list happens to be one where  
4 California could be identified and sorted. So this is  
5 the account list for active or an exemplar of what  
6 information is available to identify retail stores in  
7 California.

8 Q. When you say that this is a list of stores  
9 that R. J. Reynolds calls on, you mean this is direct  
10 sales to these particular retailers?

11 MS. BIXENSTINE: Objection.  
12 Mischaracterizes the witness's testimony. Also, this  
13 is only an exemplar. This isn't the whole list.

14 MR. JANECEK: I understand that.

15 A. Your question is again?

16 Q. The question is, you indicated that these  
17 are retailers that Reynolds calls on. Do you mean by  
18 direct sales? What did you mean by that, Reynolds  
19 calls on?

20 A. That R. J. Reynolds sales personnel  
21 actually visit and perform activities at a retail  
22 location. R. J. Reynolds Tobacco Company sells to  
23 distributors who in turn sell to retail locations that  
24 our sales people do make calls on the retail locations,  
25 and this is a list of the retail locations that our

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1 sales people or people in the sales organization call  
2 on with regard to the state of California. Again, not  
3 the complete list, an exemplar thereof.

4 Q. Just so I'm clear, this list would not be  
5 a list generated or obtained from information from  
6 distributors; is that correct?

7 A. One more time, please.

8 Q. If I understood you correctly, there's two  
9 ways that Reynolds sells its cigarettes. One is its  
10 salesmen actively make calls on certain retail  
11 organization and also it sells to distributors who make  
12 calls on retail organization; is that correct?

13 MS. BIXENSTINE: Objection.  
14 Mischaracterizes the witness's testimony.

15 MR. JANECEK: It's a question.

16 A. I did not indicate that there are two ways  
17 that Reynolds sells. R. J. Reynolds Tobacco Company  
18 sells to distributors. Our people in our sales  
19 organization, even though it's called sales, they do  
20 make calls on retail locations to look for  
21 opportunities for business.

22 I did not mean to indicate that our sales  
23 people sell to these locations in the same way. I  
24 meant selling -- J. R. Reynolds Tobacco Company selling  
25 to distributors.

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1 Q. Let me ask it this way. Would the retail  
2 outlets identified on a list such as this include  
3 retail outlets that purchase Reynolds cigarettes from  
4 distributors -- Reynolds distributors?

5 A. Yes, they would.

6 Q. The title of this document has the  
7 denotation "active." Does that mean these retailers  
8 currently carry Reynolds products?

9 A. Active means we call on those stores --  
10 that a Reynolds person calls on those stores, and they  
11 are locations that would be acquiring Reynolds products  
12 from distributors.

13 (The documents referred to were  
14 marked as Plaintiff's Exhibit 3 for  
15 identification, and attached to and made a  
16 part of this deposition.)

17 Q. Mr. Martin, I'll hand you a document which  
18 I will have the court reporter mark as Exhibit 4 to  
19 this deposition.

20 (The documents referred to were  
21 marked as Plaintiff's Exhibit 4 for  
22 identification, and attached to and made a  
23 part of this deposition.)

24 Q. It's entitled California Master Account  
25 List-Deleted By Account Name, which also has the

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1 12/1/95 date in the upper right-hand corner. Can you  
2 tell me what this document is, Mr. Martin?

3 A. Again, this is a listing of accounts from  
4 our sales information system and the identification of  
5 stores, of retail locations, where our sales people  
6 will be making calls on. There are reasons over time  
7 that an account needs to be deleted from that active  
8 list. There are various reasons for that occurring,  
9 and this is the exemplar from that list that is  
10 maintained.

11 Q. If an account has been deleted, does that  
12 mean that it no longer carries Reynolds products?

13 A. No, it does not. It could -- there are  
14 several reasons that accounts could be added to this  
15 list. One could be a name change itself within the  
16 account. It could, in fact, mean the store goes out of  
17 business, is not carrying anyone's products, it no  
18 longer exists. It could be a reason such as changing  
19 its distributor or being purchased by someone else.

20 So there are various reasons, but we from  
21 a historical perspective try to keep up with those  
22 lists of accounts. It could be a store that would no  
23 longer require us to make a call on because we do not  
24 call on or visit every retail store in the United  
25 States. So it could be various reasons that it would

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1 appear on this deleted list as opposed to the active  
2 list which we discussed earlier.

3 Q. Mr. Martin, the last document which has  
4 been noted to be responsive to Category 1(a) of  
5 Schedule B, I handed to the court reporter to have  
6 marked as Exhibit 5 to this deposition. Can you tell  
7 me what this document is?

8 A. This document is also a retail listing of  
9 accounts. It is from a different system than the  
10 previous documents in that it's from what R. J.  
11 Reynolds refers to as the AIM system, Account  
12 Information System. It is a system that indicates the  
13 movement of product from our distributors to retail  
14 locations.

15 (The documents referred to were  
16 marked as Plaintiff's Exhibit 5 for  
17 identification, and attached to and made a  
18 part of this deposition.)

19 Q. Mr. Martin, other than the documents we  
20 just discussed, can you think of any other exemplars or  
21 types of reports generated by Reynolds on the topic of  
22 -- or that would identify the location of retail stores  
23 in California selling Camel cigarettes?

24 A. The key sources for keeping up with retail  
25 at a store level are our SIS system and the AIM system.

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1 With regard to identification of retail stores, these  
2 are the best sources within R. J. Reynolds to identify  
3 those.

4 Q. You say these are the best systems. Can  
5 you --

6 MS. BIXENSTINE: Best sources.

7 Q. -- best sources. Can you think of other  
8 sources, while they may not be the best, that could be  
9 used to identify retail stores?

10 A. This is a complex question. These are the  
11 sources that are used by other systems in identifying  
12 the retail locations. We have a highly integrated  
13 system where we try to have single sources of  
14 information as opposed to having it in several.

15 So the information about a retail route,  
16 as an example, could appear somewhere else in one of  
17 the systems. Like a route for a particular sales  
18 person, it was derived from the master list as opposed  
19 to being a separate listing of a different grouping;  
20 and that's really what I meant by these are the two  
21 best sources of information of retail locations.

22 Q. Mr. Martin, we earlier briefly discussed  
23 the lack of any documents or that there were no  
24 documents that had been produced to date that would  
25 identify the location of billboards running Joe Camel

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1 advertisements.

2 Does Reynolds keep such information?

3 A. To the best of my knowledge, that is  
4 provided through a third party that would provide the  
5 service of billboards and is not an activity that  
6 Reynolds Tobacco Company would monitor like some of the  
7 other activities that we would, and that information  
8 just was not available within the systems.

9 Q. Can you identify that third party that  
10 would keep such sources of information?

11 MS. BIXENSTINE: Sources of information  
12 about billboards that run or ran Joe Camel  
13 advertisements in California?

14 MR. JANECEK: That's correct.

15 A. No, I could not.

16 Q. Do you know who at Reynolds might have the  
17 information of which third parties provide the  
18 billboards?

19 A. To the best of my knowledge, the source  
20 would be within the marketing department of R. J.  
21 Reynolds Tobacco Company.

22 Q. Do you know if the marketing department  
23 would have such a listing?

24 A. No, I do not. I do not know.

25 Q. With respect to Category 1(c), the

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1 identification of publications that run or ran Joe  
2 Camel advertisements, do you know if Reynolds keeps  
3 such information?

4 A. To the best of my knowledge, from the  
5 standpoint of our accountabilities, such information in  
6 looking across the massive systems that support that  
7 information was, in fact, not available and --

8 Q. What do you mean not available? You mean  
9 not available to the I.R. department?

10 A. Really was not within the systems that we  
11 support in connection with supporting the rest of the  
12 functional areas within the company.

13 Q. Would this category of information be  
14 similar to the location of billboards in that the  
15 marketing department -- if such a list were to exist,  
16 the marketing department would know where that list  
17 could be found?

18 A. I do believe that the marketing department  
19 would be able to clarify that.

20 Q. With respect to Category 1(d), menus or  
21 lists of promotional items used in marketing of Camel  
22 cigarettes -- off the record.

23 (Discussion held off the record.)

24 Q. Mr. Martin, I'm going to hand you a  
25 document which -- actually, I'll hand you two

1 documents, and I'll have the court reporter mark the  
2 first document which is identified as 1992 Work Plan  
3 Accounts Specific Marketing as Exhibit 6, and the  
4 second document which is entitled 1992 Work Plan  
5 Account Specific Marketing Second Half as Exhibit 7.

6 (The documents referred to were  
7 marked as Plaintiff's Exhibit 6 and 7 for  
8 identification, and attached to and made a  
9 part of this deposition.)

10 Q. Can you briefly describe for me what these  
11 documents are?

12 A. These documents are exemplars of  
13 promotional items that were utilized in the development  
14 of the 1992 Work Plan for Camel -- the Camel brand, and  
15 the various pages provide examples of items that were,  
16 in fact, part of that planning process for 1992.

17 Q. Mr. Martin, I notice that this document is  
18 different than the computer generated lists that we  
19 just discussed with respect to the location of retail  
20 stores. Are any such computer databases maintained for  
21 identifying the types of promotional items used for  
22 Camel cigarettes?

23 A. Yes, they are.

24 Q. Did you produce a copy of one of those  
25 exemplars?

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A. Yes, we did. This was the process that was utilized in 1992 and '93.

MS. BIXENSTINE: Let the record reflect that when Mr. Martin said "this," he's referring to Exhibit 6. Go ahead. I'm sorry.

A. That was it.

Q. What did you mean by the process?

A. The planning of promotional items is the selection from a list of items that can be offered and utilized within to support the Camel brand. The sales personnel would in 1992 from this book identify for their various geographies the items that they would, in fact, think are most appropriate for their geography and retail stores and, etc., and they would select these items, and in essence, that selection would be converted into a request for this particular item.

Q. And it was the I.R. department's responsibility to maintain these work plans for people to request the items?

A. The I.R. department's responsibility was to assist in the generation of the work plans and the appropriate documentation that would allow the selection and in turn the feedback from the sales reps so that the items could be, in fact, sent as



1 appropriate to the various geographies.

2 Q. With respect to Exhibit 7, which notes  
3 that it's the work plan for the second half of 1992, in  
4 1992 at least you or the I.R. department created this  
5 document biannually?

6 A. We assisted in the creation of this  
7 document. It was -- the year was divided into two  
8 halves.

9 MR. JANECEK: Go off the record one more  
10 time.

11 (Discussion held off the record.)

12 Q. Mr. Martin, I'm going to hand you what  
13 I'll have the court reporter mark as Exhibit 8 to the  
14 deposition. It's entitled the 1993 Work Plan Account  
15 Specific Marketing. Can you briefly describe this  
16 document for me?

17 A. This exhibit is the exemplars for 1993  
18 that was the second year in which the account specific  
19 approach was utilized with regard to promotions.

20 Q. Is this similar to the documents that we  
21 were just discussing with respect to 1992?

22 A. It is very similar. A different year.

23 (The documents referred to were  
24 marked as Plaintiff's Exhibit 8 for  
25 identification, and attached to and made a

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Q. Mr. Martin, I'll hand you a document which I'll have the court reporter mark as Exhibit 9 to the deposition. It's a computer generated list entitled 1994 Camel Placements for National. Can you briefly describe the nature of this document?

A. This is an exemplar of the 1994 national Camel promotions. The process as opposed to the work plan approach that was explained for 1992 and 1993 that we no longer generated the work plans themselves. This was a more automated approach and as an exemplar of the results of promotions with regard to Camel that were placed.

(The documents referred to were marked as Plaintiff's Exhibit 9 for identification, and attached to and made a part of this deposition.)

Q. Mr. Martin, you've produced two separate ways that this information was kept by Reynolds going back to 1992. Prior to 1992, was there another method that information about the promotional items was kept by Reynolds?

A. Within the promotional planning system that there has been a list of items that were, in fact, ordered, the total approach of what was available was

1 handled in two different ways from -- one from a  
2 computer listing, and in the previous '93, '92, from  
3 individual work plans. It was the level of detail that  
4 items were planned to.

5 Q. So the information is the same. It's just  
6 the way it was applied that's different?

7 MS. BIXENSTINE: Objection. What  
8 information?

9 Q. The information source. I'm trying to  
10 determine if the -- well, go back. Were the work plans  
11 identified as Exhibits 6, 7, and 8, were those the  
12 first years, 1992 and 1993, that the work plan approach  
13 was utilized by Reynolds?

14 A. Again, this is a complex question covering  
15 multiple years. The planning to the level of detail  
16 for '92 and '93 was different than it had been at a  
17 more aggregate geographic level for previous years and  
18 subsequent years. So the process mechanics, meaning  
19 the steps it went through, were, in fact, different  
20 from when we were generating what R. J. Reynolds  
21 Tobacco Company referred to as work plan versus the  
22 current approach.

23 It is still a planning process and is  
24 still referred to as a work plan calendar for  
25 implementations, but the physical generation of the

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1 work plan book was different in '92 and '93 than it was  
2 in the previous years or since that time.

3 Q. Let me ask it this way. What types of  
4 reports or lists would Reynolds have used prior to  
5 1992?

6 MS. BIXENSTINE: For what?

7 Q. To identify menus or lists of promotional  
8 items used for the Camel campaign or for Camel  
9 cigarettes?

10 A. To the best of my knowledge, those would  
11 have been more of a tabular list than an example as the  
12 exemplars in the work plans indicate where you had a  
13 picture of the item. It would have been more of a  
14 descriptive type list than is evident in these two work  
15 -- in the exhibits for '92 and '93.

16 Q. Does the I.R. department still have  
17 available to it exemplars of the types of lists used  
18 prior to 1992?

19 A. Yes, we do.

20 MR. JANECEK: Can I have counsel produce  
21 some exemplars of the prior years?

22 MS. BIXENSTINE: You want a list like this  
23 exemplar for '94 that's been marked as Exhibit 9 going  
24 back to --

25 MR. JANECEK: Well, if I understood Mr.

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1 Martin correctly, the lists prior to '92 are different  
2 than the two lists that have been -- the exemplars that  
3 have been produced today.

4 MS. BIXENSTINE: They're different than  
5 Exhibits 6, 7, and 8.

6 Q. Would the list prior to 1992 be similar to  
7 the list you produced that's for the 1994 year?

8 A. Yes.

9 MS. BIXENSTINE: Exhibit 9.

10 Q. For Exhibit 9?

11 A. For Exhibit 9? Yes, they would.

12 Q. Okay.

13 A. The items would be different.

14 Q. Okay. With respect to Category 1(e), the  
15 information or exemplars of reports or documents  
16 generated by Reynolds connected with the tracking of  
17 the market share of Camel cigarettes, Reynolds has  
18 produced several documents.

19 Mr. Martin, I'm going to hand you a copy  
20 of a document which I'll have the court reporter mark  
21 as Exhibit 10 to the deposition which looks to be  
22 entitled Shipments and is dated November 29, 1995. Can  
23 you describe what this document is?

24 A. This document is an indication of the  
25 market share for the total U.S. and California based on

1 the shipment of Camel product to distributors.

2 Q. And how long have these types of lists  
3 been maintained by Reynolds?

4 MS. BIXENSTINE: Objection to the form of  
5 the question.

6 A. Could you please clarify?

7 Q. When did Reynolds start generating this  
8 type of a list?

9 MS. BIXENSTINE: This list as opposed to  
10 the information that's on the exemplar marked as  
11 Exhibit 10?

12 MR. JANECEK: Correct.

13 A. The tracking of shipments has been going  
14 on for quite some time. It is an indication of  
15 performance of any company as market share, and we do  
16 the market share. This is commonly referred to as the  
17 MSA shipment data. And since the mid '80s, this MSA  
18 information is -- it's been retained and is basically  
19 in the systems.

20 Q. What about prior to the mid '80s?

21 A. I am not knowledgeable about prior to the  
22 mid '80s.

23 (The documents referred to were  
24 marked as Plaintiff's Exhibit 10 for  
25 identification, and attached to and made a

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Q. Mr. Martin, I'll hand you a document which I'll have the court reporter mark as Exhibit 11 which is entitled MSA Inquiries-Standard Geographical. Can you describe what this document is?

MS. BIXENSTINE: For the record, this is a two-page document. Do you want him to describe the first page first?

MR. JANECEK: Yes.

A. As with the previous exhibit, this is MSA data, that is, the shipment of Camel product to our distributors; and the first page is a market share of the volume for the total U. S.

Q. And with respect to the second page?

A. The second page is, again, shipments to distributors for Camel, and it was for the state of California.

Q. And would this type of information be maintained by Reynolds from the mid '80s similar to the information identified in Exhibit 10?

MS. BIXENSTINE: Objection. That's the same information. Frank, if you look at Exhibit 10 and compare it with Exhibit 11, it's both from the MSA system. These are just different report formats.

So if you look, for example, for 1992

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1 total U.S., if you match it up for year 1992, you see  
2 4.07, and that matches the first page. You see it on  
3 page 1 of Exhibit 10, and it corresponds to what is  
4 here on the first page of Exhibit 11. It's from the  
5 same system. We just printed out two exemplars because  
6 they're different report formats.

7 BY MR. JANECEK:

8 Q. Mr. Martin, is what your counsel just  
9 stated correct?

10 A. This is information from the same system  
11 that is presented in different formats, yes.

12 Q. Are there any other types of formats  
13 utilized to access the information from the MSA system?

14 MS. BIXENSTINE: On market share? Are you  
15 talking about market share information?

16 MR. JANECEK: Market share, correct.

17 A. Yes. There would be, even though I could  
18 not identify those. The information would be the same  
19 with -- would be consistent. It is still based on the  
20 volume, but to be able to see it annually, monthly, or  
21 quarterly, those capabilities to view different time  
22 periods are available.

23 The information that is supporting that  
24 does not change. The time period you're viewing in the  
25 first exhibit of MSA, it was listed in monthly. In the

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1 second, it was the yearly total of that, and then a  
2 year-to-date. You could do quarterly. That  
3 functionality is there.

4 (The documents referred to were  
5 marked as Plaintiff's Exhibit 11 for  
6 identification, and attached to and made a  
7 part of this deposition.)

8 Q. Mr. Martin, I'll hand you a document which  
9 I'll have the court reporter mark as Exhibit 12. It's  
10 a three-page document, the first page of which looks to  
11 be entitled Marlin with a date of November 30, 1990.  
12 Can you briefly identify what this document is?

13 A. This document is from the Marlin system  
14 that is utilized to track market share from the  
15 perspective of the retail as opposed to the MSA of the  
16 previous documents that was tracking market share which  
17 is the movement from manufacturers to distributors that  
18 were in the state of California.

19 This is based on the statistical sample  
20 within the sales geography and has the statistical  
21 sample extrapolation for the U.S. for the Northern  
22 California region and the Southern California region  
23 which is back to the geographic map that was in the  
24 first exhibit based on our sales geography. Shipments  
25 to distributors could be within the state of

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1 California, but that doesn't mean they go to retailers  
2 that are within the state of California.

3 So the tracking of that process does have  
4 some limitations with regard that, yes, Reynolds did  
5 track and did ship to distributors in California.

6 The Marlin is a statistical sample that is  
7 put together from the retail perspective and has to do  
8 -- oriented with what is referred to as the retail take  
9 away and is based on a statistical sample as opposed to  
10 MSA where that volume to distributors is based on our  
11 shipments to those people -- those companies or firms  
12 that are distributors.

13 MS. BIXENSTINE: Frank, for the record, I  
14 wanted to note that when we produced the map of our  
15 sales regions, which has been marked as Exhibit 2, that  
16 was so the information that's on Exhibit 12 and some of  
17 the other exemplars would be meaningful so you could  
18 tell what the Northern California region encompassed  
19 and what the Southern California region encompassed  
20 since it covers a lot of territories and other states.  
21 BY MR. JANECEK:

22 Q. Mr. Martin, it appears that the last two  
23 pages of Exhibit 12 are in somewhat of a different  
24 format than the first page. Can you describe the  
25 differences?

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1           A.       These last two pages of this exhibit are  
2       the presentation of, again, Marlin statistical sample  
3       data that has been calculated for the various months  
4       and is presented in connection with other sales  
5       geographies within R. J. Reynolds Tobacco Company.

6           The Northern and Southern California  
7       regions are identified as opposed to the first format  
8       where they were the only two that were presented. Both  
9       formats are available.

10           MS. BIXENSTINE: Frank, the third page of  
11       Exhibit 12 is simply the last column from this report  
12       that starts with the second page of Exhibit 12, and  
13       they simply couldn't fit it all onto one page when they  
14       copied the report.

15           Q.       Is that correct, Mr. Martin?

16           A.       That's correct.

17           Q.       With respect to the Marlin information,  
18       are there other fields or parameters that can be  
19       reported upon through this system?

20           MS. BIXENSTINE: Objection to the form of  
21       the question.

22           A.       Could you please clarify by fields or --

23           Q.       Sure. For example, will Marlin let you or  
24       let Reynolds know the market share of any given market  
25       segment?

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1 MS. BIXENSTINE: Objection to the form of  
2 the question. What do you mean by market segment?

3 Q. Do you understand the question?

4 A. No, I do not.

5 Q. Any age categorization or breakdown market  
6 share in for example 25 to 35 age range?

7 A. To the best of my knowledge, Marlin is  
8 oriented toward tracking market share within  
9 geographical boundaries to support an indication of  
10 performance. Its breakdown is to the region level and  
11 is, again, based on a statistical sample of retail  
12 locations, but it is geographically oriented and  
13 monitors that market share in relationship to time.

14 Marlin is also a very new system at R. J.  
15 Reynolds Tobacco Company. Even though it is very  
16 proprietary and was developed for R. J. Reynolds  
17 Tobacco Company, it is relatively new.

18 Q. When was it put in place?

19 A. To the best of my knowledge, it was in  
20 late 1992 I believe is when it first went into  
21 production. There's a period of time, because it was  
22 new and to establish a base, that we did not -- we were  
23 in the verification process in connection with MSA  
24 data, as an example, to ensure that it did represent a  
25 trending move, that it would indicate trends of what

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1 the market share was going to do. So the data from  
2 1994, we do consider some of the data that we have  
3 enough history that that is data.

4 Q. Does Reynolds have any other databases or  
5 reports or ways to compile information on the  
6 geographical market share for Camel cigarettes?

7 MS. BIXENSTINE: Other than what's been  
8 testified to?

9 MR. JANECEK: Other than Marlin.

10 MS. BIXENSTINE: And MSA?

11 MR. JANECEK: Okay. And MSA, yes.

12 A. Would you repeat the question, please?

13 Q. Sure. Other than MSA and Marlin, does R.  
14 J. Reynolds have any other data sources that would  
15 allow it to track or project market share on a  
16 geographic basis?

17 A. Yes, we do.

18 Q. Where would those sources be?

19 A. I referenced earlier the AIM system --

20 Q. Right.

21 A. -- which has the retail locations from --  
22 the AIM system is distributor information and is the  
23 movement from the distributor to the retailer. Because  
24 that information is obtained in a volume measure, you  
25 could and we do have calculations that have share as an

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1 indicator; however, they are trending. They're not --  
2 they're used for trends as opposed to a market share  
3 that we would consider more accurate and valid and that  
4 being MSA and the Marlin, and those are the two key  
5 resources with regard to market share.

6 Using some of the information within the  
7 AIM, you could, in fact, and we do, have an indication  
8 of market share, although that is a very general  
9 estimate and is used for indications of changes as  
10 opposed to determining what the market share is.

11 Q. Other than AIM, can you think of any other  
12 data sources to determine market share?

13 A. Within Reynolds Tobacco Company?

14 Q. Within Reynolds.

15 A. None come to mind right at this moment.

16 Q. Do you know of any data sources within  
17 Reynolds that would allow Reynolds to determine or  
18 project market shares within any given market segment?

19 MS. BIXENSTINE: By market segment, you're  
20 talking about age segments?

21 MR. JANECEK: Some age segment.

22 MS. BIXENSTINE: That's not Reynolds  
23 terminology, by the way.

24 A. Repeat the question, please.

25 Q. Are you aware of any data sources that

1 would allow Reynolds to determine market share by  
2 virtue of any market segment? And in market segment,  
3 I'm using that as an age based segment.

4 A. This is a complex question. To utilize  
5 data -- to have the capability to utilize data to make  
6 a calculation is one thing. Saying that that  
7 calculation is right and accurate is entirely  
8 different.

9 Within our MARC database items of  
10 identification would be there, one of which is age --  
11 and you used age as the reference -- but there is no  
12 tie to volume. So calculating -- even though you could  
13 extrapolate, it's not an indication of what the market  
14 share would be. So the general nature of the question  
15 could you, in fact, do it is -- technically, it is  
16 feasible even though it would be very impractical and  
17 somewhat burdensome to be able to do that.

18 Q. What is the MARC database?

19 A. It is a marketing oriented database that  
20 has identified personnel or people that potentially  
21 could be Reynolds customers or have been R. J. Reynolds  
22 Tobacco Company customers.

23 Q. Are you aware of any reports that depict  
24 market share of Camel cigarettes by any age segment?

25 A. None come to mind.

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1 Q. If such reports did exist, which  
2 department would most likely have them?

3 A. The nature of the question appears to be  
4 more marketing oriented, and I would -- to the best of  
5 my knowledge, the marketing department would be the  
6 appropriate area.

7 (The documents referred to were  
8 marked as Plaintiff's Exhibit 12 for  
9 identification, and attached to and made a  
10 part of this deposition.)

11 Q. Mr. Martin, I'll hand you a document which  
12 I'll have the court reporter mark as Exhibit 13 to the  
13 deposition.

14 (The documents referred to were  
15 marked as Plaintiff's Exhibit 13 for  
16 identification, and attached to and made a  
17 part of this deposition.)

18 Q. It's a two-page document. It appears to  
19 be two graphs depicting -- it's titled R. J. Reynolds  
20 Tobacco Company. Can you describe what these documents  
21 are?

22 A. This is a graphical representation of the  
23 information that was potentially indicated by the  
24 previous exhibit and is from the Marlin system. It's  
25 the share numbers in a graphical format for Northern

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1 and Southern California regions for the two pages. The  
2 first is Southern. The second one is Northern. A  
3 different -- it's a different presentation as opposed  
4 to the tabular listing.

5 Q. Other than the tabular listing in this  
6 graphic presentation, are you aware of any other types  
7 of presentations that can be produced from the Marlin  
8 system?

9 MS. BIXENSTINE: Objection to the form of  
10 the question.

11 A. The capability to present different time  
12 periods, again, is there. The underlying information  
13 from the Marlin system could -- doesn't, in fact,  
14 change. It is geographically oriented, and that's how  
15 it's captured and calculated based on that sample over  
16 time, but you could present -- this could have been a  
17 bar chart instead of a graphical. It could have been a  
18 tabular listing for a different region. It could have  
19 Northern and Southern California on one page as opposed  
20 to that.

21 So there is some functionality that allows  
22 the presentation of the information in a different  
23 form, but the underlying information within Marlin is  
24 the data source that such presentation is done from.  
25 In essence, it's a different -- they are different

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1 reporting formats that you can utilize.

2 Q. With respect to Category 1(f), documents  
3 regarding market research connected with Camel  
4 cigarettes, you appear to have produced no documents  
5 responsive to that category -- no exemplars responsive  
6 to that category. Are you aware of any such documents?

7 A. To the best of my knowledge, I am -- in  
8 our scope of accountability, I am not aware of any  
9 documents, meaning the information resources  
10 department.

11 Q. Are you aware if there's any database or  
12 library that would identify market research reports?

13 A. I am aware that libraries do exist, and  
14 there is a business information library. Exactly what  
15 would be contained there, I do not know.

16 Q. But there's no such list within the I.R.  
17 department that you're aware of?

18 A. Not that I'm aware of.

19 Q. With respect to Category 1(g), market  
20 research connected with the youth market, are you aware  
21 of any such exemplars of documents that would depict  
22 such research?

23 MS. BIXENSTINE: Objection to the form of  
24 the question. What do you mean by youth market?

25 MR. JANECEK: Youth market, I would mean

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1 any research for any person younger than 18 years of  
2 age.

3 MS. BIXENSTINE: Object to the definition.  
4 Reynolds doesn't do any business with people who are  
5 under the age of 18.

6 Q. So the question is, are you aware of any  
7 library or exemplars of market research into the youth  
8 market?

9 MS. BIXENSTINE: As he defined it.

10 A. And defining youth market --

11 Q. As impacting anyone under the age of 18.

12 A. I am not aware of any information as you  
13 defined it.

14 Q. Are you aware of any market research with  
15 respect to the effect of the Camel campaign on  
16 purchasers younger than 18 years old or individuals  
17 younger than 18 years old?

18 A. Please restate the question.

19 Q. The question is whether you're aware of  
20 any market research measuring the effect of the Camel  
21 campaign on individuals younger than 18 years old?

22 A. Since R. J. Reynolds does not do business  
23 oriented toward the market as you have described it, I  
24 am not aware of any such information.

25 Q. Are you aware of any documents measuring

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1 the market share of purchasers younger than 18 years  
2 old?

3 MS. BIXENSTINE: Could you restate that?  
4 I'm sorry.

5 MR. JANECEK: Read back the question.

6 (Record read as follows:

7 "Question: Are you aware of any  
8 documents measuring the market share of  
9 purchasers younger than 18 years old?")

10 MS. BIXENSTINE: Objection. Asked and  
11 answered.

12 A. I am not aware of any documents.

13 Q. If any such documents existed, do you know  
14 which department would know the location of such  
15 documents?

16 MS. BIXENSTINE: This is documents  
17 pertaining to what?

18 MR. JANECEK: The market share of  
19 individuals younger than 18 years old.

20 MS. BIXENSTINE: For Camel?

21 MR. JANECEK: For Camel.

22 A. Again, that sounds as if it's phrased as a  
23 marketing question, and from that perspective, that  
24 would be my only indication.

25 Q. With respect to Category 1(h), the

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1 effectiveness of the Joe Camel advertising campaign,  
2 your counsel earlier stated that the documents  
3 previously marked as Exhibits 13, 12, 11, and 10 were  
4 also responsive to this category. Do you agree with  
5 that?

6 MS. BIXENSTINE: Do you want to take a  
7 look at them?

8 THE WITNESS: Please.

9 (Witness reviews documents.)

10 A. Those documents that you referenced are  
11 the MSA and Marlin share documents -- market share and  
12 share of volume. Effectiveness is a very, very complex  
13 item to identify. However, one of the key indicators  
14 of performance is, in fact, market share, and that  
15 market share and shipments are some of the primary  
16 considerations that would be given, and I do agree that  
17 they're an indication -- exemplars of the effectiveness  
18 of the performance.

19 Q. Other than those documents that you have  
20 produced today, are you aware of any other exemplars or  
21 types of documents that would depict the effectiveness  
22 of the Joe Camel advertising campaign?

23 A. No, I am not aware to the best of my  
24 knowledge of any other documents that would be  
25 exemplars.

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1           Q.       With respect to Categories 1(i) and 1(j),  
2       exemplars of documents regarding the number of Camel  
3       cigarettes sold in California and revenues generated  
4       from the sale of Camel cigarettes in California, I'm  
5       going to hand you a document which I'll have the court  
6       reporter mark as Exhibit 14.

7                       (The document referred to were  
8       marked as Plaintiff's Exhibit 14 for  
9       identification, and attached to and made a  
10      part of this deposition.)

11       Q.       Can you describe for me what this document  
12      is?

13       A.       There are actually two documents. The  
14      first document that I am looking at is from the  
15      customer account management, and, again, it is related  
16      to the AIM information, and it is the summary of  
17      movement of product from our distributors who  
18      participate in the AIM partners program from their  
19      location to the retail location and provides a volume  
20      indication of that movement.

21                   Previously when I talked about AIM, I may  
22      have gave you the indication that all distributors  
23      provide that information, and I didn't -- that was not  
24      my intent. AIM information is basically from those who  
25      participate.

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1 So if a distributor does not choose to  
2 participate in R. J. Reynolds Tobacco Company's  
3 distributor programs, that information would not -- we  
4 would not be able to get at that information. But this  
5 is from the AIM, and here is also an indication that  
6 you asked from the share standpoint -- here where a  
7 share calculation was in essence made based on the  
8 information that we receive which, in fact, could be  
9 different from the previous two informations because it  
10 is not a statistical sample. It is from the  
11 information during this period of the distributors who  
12 were part of the AIM program for the period from  
13 January 1 to October 30, 1995.

14 MR. JANECEK: I'll have the court reporter  
15 mark the second page which is the second document as  
16 Exhibit 15.

17 (The document referred to were  
18 marked as Plaintiff's Exhibit 15 for  
19 identification, and attached to and made a  
20 part of this deposition.)

21 Q. Can you describe for me what this document  
22 is?

23 A. This document is from our volume reporting  
24 system, and it is presenting Camel shipments to  
25 distributors in California. It is indicating the

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1 number of units and the billings associated with that  
2 number of units during the period January 1, 1995 to  
3 October 29, 1995.

4 Q. Is this a total number or is this for one  
5 distributor?

6 MS. BIXENSTINE: What number are you  
7 referring to?

8 MR. JANECEK: Exhibit 15.

9 MS. BIXENSTINE: What number?

10 MR. JANECEK: All of them.

11 MS. BIXENSTINE: Objection to the form of  
12 the question. If you understand it, you can answer,  
13 Mr. Martin.

14 A. I'm not sure.

15 Q. This document depicts three numbers. (1)  
16 Camel regulars non-filtered, (2) other Camels filters;  
17 and (3) the totals. It's got two numbers for each of  
18 those categories.

19 Is this the total units and sales for all  
20 distributors in California or is this an exemplar of  
21 one distributor's numbers?

22 A. This is an exemplar during this time frame  
23 of R. J. Reynolds shipments to all distributors for  
24 this time frame in the state of -- the distributor was  
25 in the state of California.

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1 Q. Are similar lists kept with respect to  
2 each individual distributor?

3 A. There, again, it's a complex question from  
4 the standpoint of the business process and the system  
5 functionality that is there supporting it. Because we  
6 have to invoice each distributor, then there is a  
7 transaction that's associated with that distributor.  
8 Is it kept? Yes, it is kept. But it's kept for as  
9 long as the business requirements require for it to be  
10 kept.

11 There could reach a period of time when  
12 keeping the line item detail of an invoice would no  
13 longer be business appropriate or meet any of the other  
14 categories of the four that we talked about. So, yes,  
15 it is kept; and because we do have to monitor and track  
16 the individual shipments and transactions to support  
17 the business, that is, in fact, done. It is not a  
18 regular report that we would in essence generate.

19 (Recess taken from 4:37 to 4:41  
20 p.m.)

21 BY MR. JANECEK:

22 Q. Mr. Martin, could you describe for me all  
23 steps that Reynolds took when it was originally served  
24 with this lawsuit in 1991 to preserve documents  
25 relevant to the litigation?

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1           A.        Could you clarify what you mean by all  
2       steps?

3           Q.        What steps did Reynolds take when it was  
4       served with this action in 1991 to preserve documents?

5                   MS. BIXENSTINE:   Related to this  
6       litigation?

7           Q.        Related to the litigation.

8           A.        Earlier, I had indicated categories that  
9       indicate why documents including electronic media need  
10      to be retained.   One of those categories was  
11      information that if not covered by the other three was  
12      with regard to litigation.

13                   To the best of my knowledge with regard to  
14      this litigation, no additional steps were required  
15      because R. J. Reynolds had been involved in litigation  
16      for an extended period and no additional steps were  
17      necessary.

18                   So they would be the normal procedures  
19      that documents that could be pertinent to this  
20      particular litigation were already being retained.

21           Q.        And what would those normal procedures be?

22                   MS. BIXENSTINE:   Objection.   Asked and  
23      answered twice.

24           A.        I'm not sure what you mean by these  
25      procedures.

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1           Q.       If I understood you correctly, you  
2 testified that it instituted its normal procedures and  
3 it did not have to do anything extraordinary with  
4 respect to this litigation. I was just curious as to  
5 what the normal procedures that you were referencing --  
6 what those were?

7                   MS. BIXENSTINE: Objection. Asked and  
8 answered.

9           A.       Earlier today, we were discussing the  
10 process of backing up and the retention of information  
11 that was based on one of those four categories time  
12 dependent, and that could mean even separate that it  
13 was continuing to be retained as long as necessary.

14                   Those are the steps that each one of the  
15 categories or each information system is reviewed with  
16 regard to those four categories, and then a retention  
17 schedule, if you will, is or time frame is set for  
18 retaining these documents, and that's done in  
19 connection with the business functional department and  
20 in connection with the law department to determine what  
21 length of time the process of going from on-line to  
22 DASD that would be near realtime to take storage to an  
23 off-site location for one of those categories for the  
24 purpose of being retained for that time period.

25           Q.       With respect to the marketing and sales

1 departments, does that mean that the backup tapes and  
2 DASD for those two departments were pulled out of  
3 rotation?

4 MS. BIXENSTINE: Objection to the form of  
5 the question.

6 A. Could you clarify what you mean by the  
7 tapes and the sales and marketing?

8 Q. The backup tapes, backup information, that  
9 are routinely stored and sometimes there's a tape  
10 rotation -- you testified that there's this rotation  
11 cycle except for when litigation is involved in which  
12 case this process is undertaken and those tapes are  
13 pulled from the rotation. My question --

14 MS. BIXENSTINE: Well, he also talked  
15 about business requirements such for tax reasons.

16 Q. Business requirements as well. I'm  
17 specifically talking about the litigation and whether  
18 the tapes relevant to the marketing and sales  
19 departments of R. J. Reynolds have been pulled from any  
20 rotation?

21 A. Again, this is a complex issue. Depending  
22 on the time frame, the time frame for retention of that  
23 information could, in fact, be sufficient to meet all  
24 or one of those categories and at least for the  
25 legislation categories.

1 That does not mean that it's been uniquely  
2 identified, but it is still within the system if an  
3 oversimplification -- if the normal retention of a  
4 particular system such as Marlin save all the history  
5 we have, that's the normal procedure, and so it's not  
6 eligible for rotation. But with regard to the program,  
7 it's treated in that total program, and it just never  
8 comes up for the rotation because that's part of the  
9 program.

10 Is it listed along with or in the silo  
11 along with the tape that is from the personnel arena or  
12 the financial arena, it might have only five years or  
13 seven years, etc., then, yes, it is. So is the  
14 information being retained, the answer is, yes, it is  
15 with regard to that as opposed to trying to break it  
16 out -- is it in a rotation -- that's a very complex  
17 thing for me to do.

18 Q. What about with respect to electronic mail  
19 and word processing within the sales and marketing  
20 departments, have those backup tapes been pulled from  
21 rotation?

22 MS. BIXENSTINE: Objection. Compound  
23 question.

24 A. Those are significantly two different  
25 systems. Could you clarify that?

1 Q. Sure. With respect to -- and we'll take  
2 them one at a time -- with respect to the electronic  
3 mail system, is there a backup -- is electronic mail  
4 routinely backed up?

5 A. Electronic mail is a fairly recent system,  
6 and it is backed up, but it is something that from a  
7 business perspective is a very recent occurrence within  
8 R. J. Reynolds Tobacco Company, meaning the  
9 implementation of the LAN. Its advent and its use was  
10 significantly impacted by the implementation of the LAN  
11 that came along in 1994 from a company perspective.

12 That provided the capability of E-mail  
13 that is user friendly as opposed to some of its  
14 predecessors which were really messaging systems with  
15 very limited functionality where you could not send a  
16 lot of information. It was a sheer volume type thing,  
17 and the information associated with the E-mail system  
18 is, in fact, being backed up.

19 Q. Are those tapes recycled or are those  
20 pulled and stored without being reused, recycled, or  
21 destroyed in any way?

22 A. Again, that's a complex question. Is the  
23 information being retained, the answer is yes. Is  
24 implementation information being recycled, the answer  
25 is yes.

1 Remember I spoke about the daily backups  
2 for operational needs with regard to some of the other  
3 categories, that information is being retained and is  
4 not eligible or being recycled as the operational  
5 backups would be.

6 Q. What about word processing for those two  
7 departments?

8 A. Word processing --

9 MS. BIXENSTINE: I object to the form of  
10 the question. You may go forward.

11 A. Word processing is a tool that is utilized  
12 at the local level, and each one of those users has the  
13 accountability and the instruction to backup to create  
14 a copy of information that is appropriate to recover  
15 the business, or based on individual instructions, that  
16 would be appropriate to any of the four categories that  
17 there are, but with regard particularly to litigation.

18 Again, word processing in a user friendly  
19 form that would accommodate that is very recent. Most  
20 of that prior to that would have been retained but not  
21 in electronic media. It would have been in hard copy  
22 is the most common prior to the recent couple of years  
23 that we have been talking about the infrastructure  
24 significantly changing and the number of PC's and  
25 devices that could access significantly changing.

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1 Q. Is word processing on a network? It

2 sounds like an individual --

3 A. Word processing is, in fact, on a network.

4 The capability is to have network access. It's the

5 software, it's not -- the word processing

6 functionality, is that done in a mainframe environment

7 like one of the other systems we did? Typically, no,

8 that is not. However, from a LAN environment, you can

9 get that software locally. The software is provided.

10 The actual work is done on the local PC itself.

11 Q. So just so I understand you, if there was

12 a power failure and the individual user hadn't backed

13 up or saved his information, he doesn't have as a

14 fallback a network backup that can get him the

15 information input between the power failure and his

16 last save; is that correct?

17 A. Please restate the question.

18 Q. Sure. Most systems that I'm aware of have

19 -- if the individual file fails to save and there's a

20 power failure, there's an automatic backup that he can

21 call the system operator and have -- whenever the last

22 automatic backup occurred, have the information that he

23 didn't save put on his system, and I'm curious if

24 Reynolds has a similar automatic backup system in place

25 for its word processing? It's very useful. It's



1 happened to me many times.

2           A.       The system you describe is more of a  
3 server centric system where not only the software but  
4 the document generation is done more on a dumb terminal  
5 basis where it is done externally as opposed to the  
6 work on the PC's locally. The R. J. Reynolds approach  
7 is to do the work at the lowest level to offload the  
8 network issue that would be associated with that.

9                   Most software packages today for word  
10 processing do automatic save periodically so that in  
11 the event of a power failure, then the information is  
12 not necessarily lost. It is in we describe temporary  
13 files that are work in-process, if you would. There  
14 would be an access where you could go and when power  
15 was resumed, it would have the last copy of what you  
16 were working on. In essence, that should be the only  
17 information that would, in fact, be lost in a power  
18 failure because the other information was already saved  
19 at this point.

20                   So there is a central point from a more  
21 server centric environment where work is done on a big  
22 server such as a midrange computer or such as the  
23 example with an All-In-One system in the digital  
24 environment. For most word processing, that is done at  
25 a local, but the power failure would not necessarily

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1 mean the information would be lost. Maybe the last  
2 character or the last couple of words. But you could  
3 recover from a power failure. It is not totally  
4 transparent or done automatically. Someone has to  
5 intervene. But it is possible and is, in fact, done on  
6 a regular basis.

7 Q. But for Reynolds, it's driven by the PC or  
8 at a local level and not at a network level?

9 A. From the word processing standpoint, that  
10 is a true statement. It does not compromise the  
11 quality or the integrity of the information. It is a  
12 decentralized deployment that is usually more cost  
13 effective and highly proficient.

14 Q. Are you aware of any steps that were  
15 undertaken by Reynolds to store information with  
16 respect to voice mail? And that's at the onset of this  
17 litigation.

18 A. Again, repeat the question. I'm sorry.

19 Q. With respect to the voice mail systems,  
20 are you aware of any steps that were undertaken by  
21 Reynolds once it was served with this lawsuit to  
22 preserve voice mails?

23 A. Again, the normal procedures were in  
24 place. The voice mail system that Reynolds uses does  
25 not have the technical capability to do the same degree

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1 of backup scenario to tape that was described with  
2 regard to other electronic media. Is information being  
3 retained? Yes, it is. But the instructions with a  
4 voice mail system -- it is a messaging system. It is  
5 intended to establish communication and clearly stated  
6 to the voice mail users.

7 The other is the volume of those  
8 transactions is significant -- the number of voice mail  
9 messages. So it is technically not feasible and not a  
10 practice. We retain until the system is full even  
11 though each person has a voice mailbox, and that  
12 general retention is usually a matter of weeks as  
13 opposed to a matter of years, and it's a combination of  
14 the purpose of voice mail, the volume, and the  
15 technical capability of the voice mail based on an  
16 architecture that we are currently employing.

17 Q. But there were no steps taken to preserve  
18 voice mail since the onset of this litigation; is that  
19 correct?

20 A. The preservation of voice mail that was  
21 the normal policy and the normal practice was not  
22 altered.

23 Q. Okay. Mr. Martin, the last area of  
24 inquiry is I want to talk about some of the individual  
25 departments and see if you can help he identify the

1 extent that individual terminals are used in those  
2 departments.

3 With respect to the sales department, we  
4 already went over it. What about brand management, are  
5 individual terminals used extensively in the brand  
6 management department?

7 MS. BIXENSTINE: Currently?

8 MR. JANECEK: Currently.

9 A. In the brand management area, they are  
10 used.

11 Q. Do you know to what level individuals in  
12 the brand management unit have individual terminals  
13 available?

14 MS. BIXENSTINE: Objection to the form of  
15 the question. Objection. Asked and answered. It's  
16 vague. What do you mean by to what level, and also we  
17 did go over this right after you talked about the sales  
18 area.

19 A. Could you repeat the question, please?

20 Q. Sure. Are you able to note a particular  
21 level where individuals employed in the brand  
22 management division or department do not have access to  
23 individual terminals?

24 A. Again, this is a complex question similar  
25 to our discussion of the sales areas. People at

1 different levels are granted access based on their need  
2 to support the business. They are provided terminals.  
3 Not everyone has a terminal and not everyone has the  
4 same degree of access within a department or even the  
5 same hardware or software.

6 From a hierarchical standpoint of level,  
7 you could have a somewhat senior person who does not  
8 have a terminal and a somewhat junior person who, in  
9 fact, would potentially report to that more senior  
10 person in the level structure who would, in fact, have  
11 a terminal.

12 So it's driven by the business needs of  
13 the positions within that various unit, whether it be  
14 sales, marketing, or manufacturing; and it's required  
15 to do their job to meet their job accountabilities and  
16 responsibilities.

17 Q. But you're not going to tell me that a  
18 senior person in the brand management unit could not  
19 have access to a terminal if he wanted it?

20 A. Repeat that.

21 Q. My question is more -- I understand that  
22 some individuals don't use computers because they don't  
23 know how or don't want to. What I'm trying to get at  
24 is to what level are computers made available by  
25 Reynolds, whether people accept the availability, or to

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1 what level does Reynolds make available computers to  
2 its employees among the different units?

3 MS. BIXENSTINE: Objection to the form of  
4 the question, and I object also that this has been  
5 asked and answered.

6 A. Again, it's based on what position could  
7 need access to perform their job. Then R. J. Reynolds  
8 Tobacco Company and the personnel within that  
9 department, the department management, would, in fact,  
10 provide that device, terminal PC, and then the  
11 appropriate access would be there.

12 The level approach is just not -- that is  
13 hard for me to define because it really doesn't exist,  
14 and it's back to my previous example about a senior  
15 manager who does not have a PC or a terminal and a more  
16 junior person that would be in his area of  
17 accountability who, in fact, does have that and has the  
18 access that is required to utilize that.

19 Q. So if I want this information, basically,  
20 I need to talk to the department management to  
21 determine -- they would be able to tell me who does and  
22 doesn't have access to computers?

23 MS. BIXENSTINE: Objection to the form of  
24 the question. I also object to this entire line of  
25 inquiry. It's totally irrelevant to this case.

1           A.       Who does and who doesn't is back to the  
2 listing by name. The department management could give  
3 you an indication of who does and who does not, but  
4 there again, that would not give you the level  
5 indication that you are inquiring about as a  
6 demarcation point that is the -- is a clear indication  
7 of these do and these do not.

8                   New hires at Reynolds Tobacco Company at  
9 the lowest level throughout the organization could, in  
10 fact, have access. A person who had been there for 30  
11 years and was in senior management could, in fact, not  
12 have a terminal. The appropriateness of who does  
13 within that particular department is what is required  
14 for that person to do the job.

15       Q.       I think you have answered my question  
16 finally which was that new hires can have access to a  
17 computer?

18                   MS. BIXENSTINE: If there's a business  
19 need.

20       A.       If there is a business need, that is  
21 accurate.

22                   MS. BIXENSTINE: I think he said that  
23 around ten-thirty this morning.

24       Q.       Mr. Martin, for the last line of  
25 questioning, I want you to identify databases with

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1 certain selective departments that you're aware of.

2 With respect to the sales department, we went over the  
3 Marlin. We went over the MARS, the AIM, the --

4 MR. MCKIM: There's no MARS.

5 Q. -- the MRS --

6 A. MRS.

7 Q. -- the MRS and the AIM. Are you aware of  
8 any other data systems that the sales department  
9 utilizes?

10 MS. BIXENSTINE: Objection to the form of  
11 the question.

12 Q. I believe you mentioned MARC as well.

13 A. Each of the major systems that we  
14 discussed in some of the exemplars such as -- you did  
15 not say SIS. SIS would, in fact, be one. We discussed  
16 PPS, and that, in fact, would be one of the databases.  
17 Marlin, if it hasn't been -- we had discussed Marlin?

18 Q. Yes.

19 A. We discussed the VSR, volume sales  
20 reporting. We discussed the distributors with regard  
21 to VSR, and those distributors would be in our customer  
22 services system, and that is --

23 Q. Is that where the AIM is?

24 A. Well, it becomes part of the source for  
25 AIM and part of the source for VSR as well, but it is a

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1 separate application that is utilized.

2 We did discuss the human resources system.  
3 This is a difficult question. One of the exemplars was  
4 the map. The basis for that map was really the SIS in  
5 combination with the sales planning with combination of  
6 our sales call manpower planning to actually generate  
7 what the geographies could look like.

8 Now, if you pull all of those components,  
9 then you end up with a much smaller around geography  
10 but a different type database. I think we have or I  
11 have named the major sources of information that could  
12 be put together in smaller databases including a spread  
13 sheet as an example on a PC, but the information is  
14 still the same.

15 Q. And that's what I'm looking for is the  
16 source information.

17 A. I've tried to name the major sources of  
18 the information as related to this deposition. I mean,  
19 I cannot -- I cannot name each one of the major -- of  
20 the subsets of the databases. Like spread sheets, each  
21 spread sheet would have its own.

22 Q. What about brand management, other than  
23 the sources that you have already testified, would they  
24 have any additional sources or major sources?

25 A. The financial -- we did mention that

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1 somewhere, but the financial system would be.

2 Q. What about marketing services, other than  
3 the systems and sources that you've already talked  
4 about, would they have any additional?

5 A. No other ones come to mind than those for  
6 the marketing area.

7 Q. What about consumer research, would they  
8 have any additional sources to draw upon?

9 MS. BIXENSTINE: Objection to the form of  
10 the question. I don't remember any testimony about  
11 consumer research department.

12 MR. JANECEK: That's why I'm asking if  
13 there's any additional sources that they can draw upon.

14 MS. BIXENSTINE: Well, I don't know that  
15 there's a consumer research department.

16 Q. Is there a consumer research department or  
17 group?

18 A. Not to my knowledge. Within the marketing  
19 department, there is a consumer area. I'm not sure  
20 what the title of that particular area is, but it would  
21 be -- it would utilize the basic systems and sources of  
22 information that we have described.

23 Q. What about the executive management?

24 MS. BIXENSTINE: Objection to the form of  
25 the question.

1 A. Can you clarify executive management for  
2 me?

3 Q. Counsel has previously produced an  
4 internal organization structure of the various  
5 departments from 1987 to date. One of departments that  
6 continuously appears is entitled Executive Management.  
7 Whether it's a group or a department or a division,  
8 it's unclear.

9 MS. BIXENSTINE: Objection to the form of  
10 the question. Assumes facts not in evidence.

11 A. Would you please --

12 Q. My question is other than the sources and  
13 systems you have previously identified, would executive  
14 management have access to additional sources or  
15 systems?

16 A. And you're referring to people who are  
17 assigned to --

18 Q. Jim Johnson.

19 MS. BIXENSTINE: Do you mean people who  
20 report to the CEO or the chairman of the board?

21 Q. And/or the CEO or the chairman of the  
22 board. We could go through the organizational --

23 MS. BIXENSTINE: For executive management,  
24 you mean CEO or chairman of the board or people who  
25 directly report to them?

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1 MR. JANECEK: The vice presidents --

2 MS. BIXENSTINE: Not all vice presidents  
3 report directly to them. There are a lot of vice  
4 presidents. So you mean the CEO and the chairman of  
5 the board and the direct reports to them?

6 MR. JANECEK: Let me show you an example.  
7 This group (indicating).

8 I'll have the court reporter mark that as  
9 Exhibit 16. Throughout the documents produced by  
10 Reynolds and these organizations charts, this group has  
11 been referred to as the executive management --  
12 executive -- there, it's just executive -- the  
13 executive department. These are the individuals I'm  
14 referring to.

15 MS. BIXENSTINE: Mark that as an exhibit.

16 (The documents referred to were  
17 marked as Plaintiff's Exhibit 16 for  
18 identification, and attached to and made a  
19 part of this deposition.)

20 MS. BIXENSTINE: Note for the record that  
21 Exhibit 16 is an organization chart from April 1993,  
22 and I believe there have been some changes since that  
23 time. Is your question what systems would people in  
24 these positions that are denominated on Exhibit 16 have  
25 access to?

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1 MR. JANECEK: That group -- other than the  
2 ones that Mr. Martin has testified to, if any.

3 MS. BIXENSTINE: And the question is what  
4 they have access to or what they would regularly use.

5 MR. JANECEK: What they have access to.  
6 What other major areas of information.

7 MS. BIXENSTINE: You've got R & D on here.  
8 You've got financial. You've got operations. You've  
9 got personnel.

10 A. This is a very broad, difficult, complex  
11 question that there is a title that is on here,  
12 executive vice president of operations, that that  
13 position is different and the person that is named on  
14 this chart is, in fact, different.

15 There's been organization changes. But  
16 from the functional area of operation, does it utilize  
17 information that is, in fact, different from what we  
18 have described? The answer is, yes, because the  
19 operation function is oriented toward the manufacturing  
20 arena and has to do with the logistics, has to do with  
21 procurement, has to do with functions that are  
22 different from the ones we have been discussing around  
23 the sales and marketing arena.

24 So the information that people -- if such  
25 positions still exist and the people that are in those

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1 positions, whomever they may be, do they have assess to  
2 different types of information, the answer is yes.

3 Remember I described a very complex,  
4 highly integrated portfolio of over 250 different  
5 applications, all of which are oriented toward  
6 supporting the business functions that are generally  
7 depicted by this exhibit, and, yes, they do have  
8 different information availability because their  
9 function requires different information availability.

10 Q. But my question is of those 250 different  
11 sources you've identified, 10 key sources or 10 major  
12 sources -- I can't remember the exact language you used  
13 -- my question is what key sources or major sources  
14 other than the ones you've testified to would the  
15 executive management level have access to?

16 MS. BIXENSTINE: Objection to the form of  
17 the question.

18 A. Could you clarify what they would have  
19 access to with regard to what?

20 Q. Let me ask it this way. You said that  
21 there's approximately 250 databases available here at  
22 Reynolds?

23 MS. BIXENSTINE: Objection. Systems.

24 Q. Systems. Databases. How many databases  
25 does Reynolds maintain?

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applications. It's been applications, not databases,  
not systems. Applications.

A. I do not know the exact number of  
databases that are used. Databases are used to support  
the applications. So consequently, there could be a  
composite of several different sources of information  
to create a new database. So the 250 are the  
functional applications that are oriented toward  
supporting the entire business and all elements of that  
business and particularly the major functional elements  
of sales, marketing, manufacturing, etc.

So this chart covers the functional areas  
in general of the business, and we have not discussed  
every application that the person who may be in that  
particular functional area would in essence consider  
critical to their operation in performing their  
functional accountabilities.

MS. BIXENSTINE: Frank, I want to note  
that it's five-thirty, and this line of inquiry is  
outside the scope of the deposition notice that you  
have served.

MR. JANECEK: Actually, it's not. If you  
look at Item 4, the nature and extent of any computer  
analysis of or database for retaining information on

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1 any of the topics noted above.

2 MS. BIXENSTINE: Right. Which was the  
3 topics noted in 3(a) through (j), but I assume that  
4 means 2(a) through (j), and what applications Reynolds  
5 has for research and development or manufacturing or  
6 operations or financing administration have nothing to  
7 do with the items listed in Schedule 2(a) through (j),  
8 nor do they have anything whatsoever to do with the  
9 Mangini case which relates to the Joe Camel advertising  
10 campaign.

11 BY MR. JANECEK:

12 Q. Mr. Martin, earlier you testified that  
13 Reynolds affiliates have access to electronic mail.  
14 What about advertising agencies, are there any or any  
15 other third parties?

16 MS. BIXENSTINE: Objection to the form of  
17 the question. Access to electronic mail? I'm not sure  
18 what you mean. Do you mean can they access Reynolds'  
19 E-mail or do you mean is there a capability to send  
20 electronic mail between Reynolds Tobacco and various  
21 third parties?

22 MR. JANECEK: Can send and receive.

23 A. Would you repeat the question, please?

24 Q. Earlier you testified that Reynolds and  
25 its affiliates have the capabilities to send and

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1 receive electronic mail. What other entities besides  
2 Reynolds and its affiliates have that capability?

3 MS. BIXENSTINE: Can you read that  
4 question back?

5 (Record read as follows:

6 "Question: Earlier you testified  
7 that Reynolds and its affiliates have the  
8 capabilities to send and receive  
9 electronic mail.")

10 MS. BIXENSTINE: You mean between and  
11 among each other?

12 MR. JANECEK: Exactly.

13 MS. BIXENSTINE: You don't mean what other  
14 entities in the world have E-mail capabilities?

15 MR. JANECEK: No.

16 MS. BIXENSTINE: Okay. If you understand  
17 the question, you can answer.

18 A. One more time please, if you would repeat  
19 it.

20 Q. Back up. Is it true that Reynolds and  
21 Reynolds affiliates can send and receive electronic  
22 mail to each other?

23 MS. BIXENSTINE: Objection to the form of  
24 the question. Do you mean can Reynolds send E-mail to  
25 every affiliate, all 150 or however many there are?

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1 MR. JANECEK: I believe he testified that  
2 virtually all of them have that capability, but I want  
3 to make sure.

4 A. With regard to E-mail?

5 Q. E-mail.

6 A. I said with regard to affiliates that we  
7 do have the capability, but that did not mean that we  
8 had the capability to all locations and all  
9 departments. Also, it is very limited functionality  
10 and very recent functionality that exists that E-mail  
11 -- because different affiliates run different E-mail  
12 packages, there are some technical hurdles that make  
13 the process extremely difficult in some arenas, and,  
14 therefore, the capability for anyone at one affiliate  
15 to send to anyone at another affiliate does not exist.  
16 In a limited form in general, the key areas that  
17 require business communication through electronic mail  
18 can, in fact, accomplish that, but that is not every  
19 location and every individual and every affiliate  
20 throughout the R. J. R. family.

21 Q. Other than the affiliates, are there any  
22 other entities that have those capabilities?

23 MR. MCKIM: Which capabilities?

24 MR. JANECEK: The capabilities he just  
25 discussed to send and receive electronic mail.

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1 MS. BIXENSTINE: Between and among each

2 other.

3 A. Yes, there is.

4 Q. What other entities does Reynolds -- with  
5 whom does Reynolds have that ability?

6 A. E-mail is not an unusual business  
7 practice. It is an electronic messaging system that  
8 allows you to transmit messages from Point A to Point  
9 B. There are third party providers of capability that  
10 would allow you to transmit an E-mail from one company  
11 to another. An example of that would be through a  
12 third party like Compuserve.

13 Q. We're not talking about the third parties.  
14 I'm talking about Reynolds systems -- E-mail within  
15 Reynolds systems, not getting on the Internet and  
16 sending it to Joe Blow in Africa.

17 A. Okay. There are limited E-mail  
18 capabilities. To send -- they have to be identified in  
19 our system so that we can receive as well. They can  
20 send it, and unless they're coming in through a generic  
21 approach such as the Internet that you described or  
22 through a third party service, then they would have to  
23 be defined within our E-mail system.

24 The only ones that come to my mind right  
25 now are the MARC and the IRI with regard to E-mail

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1 capability.

2 Q. I'm not sure you're answering the question  
3 that I asked. The question was -- maybe we need to  
4 revisit it. The question is who does Reynolds have  
5 E-mail capabilities to send and receive E-mails? And  
6 this is not the Internet or third party providers but  
7 Reynolds E-mail.

8 MS. BIXENSTINE: Objection. Asked and  
9 answered. He said MARC and IRI.

10 MR. JANECEK: And MARC and IRI, I believe,  
11 are systems and not --

12 MS. BIXENSTINE: He said IRI was a third  
13 party provider.

14 Q. Okay. IRI is one that does the Marlin.  
15 It gathers the data for --

16 A. Correct.

17 Q. Okay. What about MARC? I thought that  
18 was the marketing database?

19 A. It is, but it's also an entity.

20 Q. What is MARC?

21 A. I do not recall exactly what the acronym  
22 stands for.

23 Q. Now, you stated that to have access to the  
24 Reynolds E-mail, they've got to be recognizable by  
25 Reynolds. Is that by some kind of user ID?

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1           A.       Yes, it is. It means that you have to be  
2 defined unless you are taking the generic approach that  
3 you referenced earlier through a third party provider  
4 or the Internet.

5           Q.       Does Reynolds have the capability to print  
6 out a list of user ID's?

7           A.       Would you clarify that, please?

8           Q.       Does Reynolds have the ability to print  
9 out a list of ID's that the Reynolds E-mail system  
10 recognizes?

11                   MS. BIXENSTINE: Objection. Asked and  
12 answered.

13           A.       The response to that question was  
14 something that we discussed earlier with regard to the  
15 ability is it technically feasible, would it be  
16 cumbersome, is it something that we normally do --

17           Q.       When we talked about identifying the  
18 individuals, but what about just a list of user ID's?

19           A.       Do you mean a list of numbers?

20           Q.       Well, does the Reynolds E-mail -- do you  
21 send it to a number or do you send it to a name or a  
22 nickname?

23           A.       Each user is uniquely identified, and  
24 that's usually in association with the individual's  
25 name.

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1 Q. For example, do you have a user ID?

2 A. Yes, I do.

3 Q. What's yours?

4 MS. BIXENSTINE: Objection. It's totally  
5 irrelevant and proprietary. Why do you need to know  
6 his user ID number?

7 Q. Just give me an example of an individual's  
8 user ID name.

9 A. T-S-A-B.

10 Q. And what would T-S-A-B stand for?

11 A. Basically, it would not. That is one that  
12 is a generic in the way that is assigned ID's. This is  
13 a complicated -- getting to an ID is a process or  
14 getting to the E-mail system requires you to have an ID  
15 to start with. Additionally, it requires you to have a  
16 password to start with.

17 With regard to the E-mail system, it  
18 requires you to, again, be uniquely identified and also  
19 uniquely have a password that's associated with that.  
20 So there are multiple ID's associated with the multiple  
21 system.

22 There is one standard ID which is the  
23 network ID that really starts that, and that is the  
24 base ID that anyone accessing either internally or  
25 externally the R. J. Reynolds Tobacco Company's network

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1 would have to be the first step, and that's called a  
2 user ID.

3 With regard to the financial systems,  
4 there is also an ID that's associated that could, in  
5 fact, be different.

6 Q. We're just talking about the E-mail  
7 system.

8 A. The E-mail system, in fact, has an ID that  
9 is associated with a mailbox for an individual, and  
10 that's -- depending on the system -- is usually some  
11 relationship to the person's name. It does not have to  
12 be, but as a practice, it usually is so they can be  
13 identified.

14 Certain E-mail systems don't provide  
15 capability that you can do that because their ID's are  
16 very limited in their length and could be very limited  
17 characters, and it varies within -- within our company.

18 Q. Would it be just as burdensome to print  
19 out a list of user mailboxes as it would be to identify  
20 individuals that use E-mail or that have an E-mail ID?

21 MS. BIXENSTINE: Objection to the form of  
22 the question. If you know what is meant by using  
23 mailboxes, you can answer.

24 A. It would be just as burdensome, and I'm  
25 having difficulty determining the difference between --

1 Q. It would still take five people and a  
2 matter of days to print out that list?

3 A. Yes, it would. There would have to be  
4 that many people involved in accomplishing that.

5 Q. And it would take a matter of days to  
6 generate that list?

7 A. Yes, it would. We have multiple E-mail  
8 systems.

9 MS. BIXENSTINE: Frank, how are you doing  
10 because I have a flight to catch tonight.

11 MR. JANECEK: Let me take a look at my  
12 notes and see if I've got anything else.

13 Q. Mr. Martin, you testified that within the  
14 last couple of years Reynolds' use of computers has  
15 greatly expanded. Can you describe the difference  
16 between the time you were talking about prior to the  
17 expansion and today?

18 MS. BIXENSTINE: Objection to the form of  
19 the question. Extremely vague.

20 A. Could you clarify the question, please?

21 Q. Let's break it down. I know you testified  
22 that the LAN system was utilized within the last two to  
23 three years. What other differences --

24 MS. BIXENSTINE: Objection. You're  
25 mischaracterizing the record.

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1           A.       The infrastructure with regard to  
2       information technology is driven by changes in that  
3       technology is more affordable, and that's from the  
4       perspective of the end devices, the ability to  
5       centralize and distribute resources, computing  
6       resources to individuals. That's usually associated  
7       with the availability of what we've characterized  
8       during this process as a terminal of some type where an  
9       individual has access and utilizes that terminal in  
10      performing their job responsibilities.

11                   Due to affordability and the availability  
12      of technology and changes in the organizational  
13      structure that R. J. Reynolds has deployed today, more  
14      people within the company have and are utilizing  
15      terminals than it did in the previous years such as '90  
16      and '91. It is the number of devices, the functional  
17      capability of the applications that support the  
18      business, and with the intent to decentralize decision  
19      making to its lowest level that would be appropriate.

20                   So when I was referring to the increase in  
21      the information technology infrastructure, it was with  
22      regard to the number of people who utilize and have  
23      available devices and terminals to access information  
24      and to utilize that information as opposed to saying  
25      information technology wasn't significantly utilized

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1 throughout R. J. Reynolds Tobacco Company prior to  
2 that.

3 It is a matter of in -- as with most  
4 businesses, R. J. Reynolds Tobacco Company has found  
5 that it is important to leverage information in its use  
6 to help gain efficiencies within supporting the  
7 business operation, and in essence more of the  
8 organization has become more interested and somewhat  
9 dependent on utilizing that information because we do  
10 not have the human resources that we once did to  
11 accomplish the same task.

12 Q. Other than the number of PC's, I think you  
13 said that E-mail was relatively new as well?

14 MS. BIXENSTINE: Objection. Is that a  
15 question? Objection to the form of the question.

16 A. E-mail in a user friendly form. Again,  
17 back to numbers who would utilize it. E-mail  
18 capability in a mainframe arena has existed -- the  
19 technology has been around for a long time. The  
20 technology versus the number of people using it is, in  
21 fact, different because it's -- until recently,  
22 information processing was not what is referred to as  
23 user friendly. It was difficult to use and was often  
24 characterized as taking a techie to be able to do that.

25 The infrastructure and the increase that I

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1 was referring to is for operations that are more user  
2 friendly and can be used by someone who is not a  
3 technical guru or consultant.

4 Q. So after 1992, E-mail became user  
5 friendly, is that what I'm understanding you to say?

6 A. User friendly -- that E-mail became more  
7 user friendly because of the nature of the product and  
8 became utilized on an ever increasing basis in  
9 combination with the expansion of our LAN environment  
10 that had existed prior to that but, again, not in the  
11 numbers that we're talking about throughout each  
12 departmental functional area of the company.

13 Q. What about other systems, were there  
14 similar expansions?

15 A. I'm -- please.

16 Q. Besides the LAN and the number of PC's  
17 that have expanded or were greatly expanded after 1992,  
18 were there other areas that similarly showed a great  
19 expansion?

20 A. Yes, there were that I had indicated. For  
21 example, the Marlin system is a very recent system. I  
22 would consider that an improvement just as I would the  
23 increase in the number. The functionality associated  
24 with we've been describing or referencing 250  
25 applications has been increasing in areas that they are

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3390

1 very recent such as Marlin is a very recent system. We  
2 described AIM as a very recent system. Some of the  
3 other systems have progressed but not being brand new.  
4 I would consider those as being gradually enhanced.

5 Q. Do you have any other new systems, brand  
6 new systems?

7 A. Brand new from?

8 Q. Similar to Marlin and AIM, the ones you  
9 were just talking about?

10 A. A system would be -- our customer services  
11 area, it has a new system.

12 Q. Any others?

13 A. The manufacturing area has several new  
14 systems.

15 Q. Beside -- putting manufacturing aside?

16 A. The personnel area has a new system, and  
17 the financial area has a major module of a new system  
18 that is, in fact, new. Those are the major ones.  
19 There could be others. Those are the major ones that  
20 come to mind across the company.

21 MR. JANECEK: I don't have any other  
22 questions.

23 EXAMINATION

24 BY MS. BIXENSTINE:

25 Q. I have a few follow-up questions. Mr.

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1 Martin, as you know, I'm Kim Bixenstine, and I  
2 represent the defendants in this case, and I have a few  
3 questions to clarify the record for this deposition.

4 I believe you testified earlier that  
5 certain affiliates of R. J. Reynolds Tobacco Company  
6 have access to certain top line summary financial  
7 information of R. J. Reynolds Tobacco Company; is that  
8 right?

9 A. That is correct.

10 Q. Do all of the affiliates in the R. J. R.  
11 Nabisco family, which number approximately 150, have  
12 access to R. J. Reynolds Tobacco Company's top line  
13 summary financial information?

14 A. No, they do not.

15 Q. What affiliates of R. J. Reynolds Tobacco  
16 Company would have access to that top line summary  
17 financial information of R. J. Reynolds Tobacco  
18 Company?

19 A. That top line information is made  
20 available in connection with management status, and  
21 that would be Tobacco International, R. J. Reynolds  
22 Tobacco International, R. J. Reynolds Tobacco Company,  
23 Nabisco Brands, and R. J. R. Nabisco, meaning the  
24 parent corporation.

25 Q. Is it fair to say then, sir, that there is

1 sharing of top line financial information only among  
2 the top tier subsidiaries of R. J. R. Nabisco, Inc. and  
3 R. J. R. Nabisco, Inc., the parent company?

4 A. Yes. And it's very top level information.

5 Q. Can R. J. R. Nabisco, Inc. tap into any of  
6 the financial systems of R. J. Reynolds Tobacco  
7 Company?

8 A. Please one more time.

9 Q. Can it access the financial systems of R.  
10 J. Reynolds Tobacco Company other than this top line  
11 summary financial information you have described?

12 A. No, it can not.

13 Q. Is that top line summary financial  
14 information available to them only when R. J. Reynolds  
15 Tobacco Company makes it available to them -- to R. J.  
16 R. Nabisco, Inc.?

17 A. Yes, it is.

18 Q. You have testified today at length about  
19 certain applications that R. J. Reynolds Tobacco  
20 Company uses for its sales and marketing functions.  
21 Can any of the affiliates of R. J. Reynolds Tobacco  
22 Company access the information in those systems such as  
23 the SIS system, the sales information system, the  
24 Marlin system, the MSA system, the AIM system?

25 MR. JANECEK: Objection. Vague and

1 ambiguous. You're talking about after they submitted  
2 their request under the procedures that he outlined  
3 earlier?

4 MS. BIXENSTINE: Excuse me?

5 MR. JANECEK: Are you talking about if  
6 those affiliates or the individuals within those  
7 affiliates have submitted the request procedure that he  
8 was outlining earlier?

9 MS. BIXENSTINE: No.

10 Q. Can the affiliates access that information  
11 in the systems that you testified to that are used by  
12 the sales and marketing functions?

13 A. No, they cannot.

14 Q. And if they submitted a so called request  
15 or -- strike that.

16 Do individuals employed by other companies  
17 that are subsidiaries of R. J. R. Nabisco, Inc. ever  
18 submit requests for information contained in Reynolds'  
19 sales and marketing application systems?

20 A. No, they do not. Each company has its own  
21 systems, and the access is within those companies, and  
22 that is not a request that I have seen from someone  
23 else to have access to.

24 Q. So in other words, there isn't a sharing  
25 of marketing and sales information between and among

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1 Reynolds Tobacco Company and its affiliates?

2 MR. JANECEK: Objection to the form of the  
3 question. It's leading.

4 A. The affiliates do not have access to our  
5 -- our, being R. J. Reynolds' Tobacco Company -- sales  
6 and marketing information or their associated  
7 databases.

8 Q. Does Reynolds Tobacco have access to any  
9 such databases that may be maintained by any of its  
10 affiliates?

11 A. No, we do not.

12 Q. I'd like to move to the exhibits that were  
13 marked as Exhibits 3, 4, and 5 which were identified in  
14 response to Schedule B(1)(a), the listing of retail  
15 stores that sellers sold Camel cigarettes in  
16 California.

17 Does Reynolds have a complete listing of  
18 every retail store in California that sells its  
19 products?

20 A. No, we do not.

21 Q. The exemplar from the sales information  
22 system that has been marked as Exhibit 3, if the court  
23 reporter could hand it to you -- strike that.

24 The sales information system, would that  
25 contain an exhaustive list of every retail store in



1 California that sells Reynolds product?

2 A. No, it would not.

3 Q. So if one printed out the entire list from  
4 which Exhibit 3 comes, it would not be an exhaustive  
5 list of every retail store in California that sells  
6 Reynolds products?

7 A. No, it would not.

8 Q. Now, with respect to Exhibit 5, which is  
9 an exemplar from the AIM system, if one printed out  
10 every retail store in California on the AIM system,  
11 would that be an exhaustive list of every retail store  
12 in California that sells Reynolds products?

13 A. No, it would not.

14 Q. Mr. Martin, you testified about the MARC  
15 system which or -- strike that. Is that system or am I  
16 correctly summarizing your testimony that that system  
17 contains the names of consumers who purchased Reynolds  
18 product or potential consumers of Reynolds products?

19 A. That is correct.

20 Q. Does Reynolds take any steps to ensure  
21 that all the individuals contained in that database or  
22 that related system are over the age of 18 years old?

23 A. Yes, we do.

24 Q. What steps does Reynolds take to ensure  
25 that everyone on the MARC system and database is over

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1 the age of 18?

2 A. This is a complex process, but they -- an  
3 individual's name is associated with an address, and  
4 that information comes in what we refer to as a file.  
5 That name file and with that address could come with  
6 information through a mail-in or through a sales person  
7 in the field that would have an age and a signature  
8 card associated with it that would clearly state that  
9 the person signing the card verifies the information is  
10 correct.

11 Additionally, if we would receive a name  
12 that would not have a card, then the process that  
13 Reynolds would go through is called a rescreening  
14 process that would request the individual to fill out  
15 and sign a card verifying that their information is  
16 correct including the age. That process is identified  
17 as occurring in individuals that we do not have  
18 signature cards for that have verified their age, then  
19 are uniquely identified as well.

20 Each time that information is used in  
21 connection with something that the marketing department  
22 would like to accomplish such as the mailing of  
23 information or some solicitation, then the initial  
24 process of generating that mail file goes through this  
25 age verification process that is part of the system to

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1 verify that we have to the best of our knowledge a  
2 confirmed indication of the individual's age.

3 Q. Do the signature cards that you've  
4 described contain any information about whether the  
5 individual is a smoker?

6 A. Yes, they do. Part of the information is  
7 the frequency that you purchase products and the brands  
8 that you would purchase as an example.

9 Q. Mr. Martin, I'd like to clarify something  
10 with regard to what has been marked as Deposition  
11 Exhibit 10.

12 A. Could I clarify one thing with regard to  
13 the age process?

14 Q. Yes.

15 A. In that process, if it was identified in  
16 some manner that it was verified that a person had  
17 misstated their age or they were not of the appropriate  
18 age, they would not be put on the database at all. So  
19 the only people that were on the database are those  
20 that the process of verifying has occurred and that  
21 from the standpoint of age verification has taken  
22 place.

23 Q. With respect to Exhibit 10, which I'm  
24 handing you, this I believe you testified is an  
25 exemplar of information from the MSA system showing the

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1 market share of shipments by Reynolds to its  
2 distributors throughout the U.S. and in California for  
3 Camel; is that right?

4 A. That is correct.

5 Q. Distributors to whom Reynolds sells its  
6 product were located in California -- strike that.

7 Can distributors to whom Reynolds sells  
8 its product sell cigarettes to retailers who are  
9 located outside of California?

10 A. Oh, yes, they most definitely can.

11 Q. Can distributors who are located outside  
12 of the state of California sell Reynolds cigarettes to  
13 retailers who are within the state of California?

14 A. Yes, they can.

15 Q. So does Exhibit 10 fairly reflect market  
16 share for Camel with respect to retail sales of  
17 cigarettes either for the nation as a whole or in  
18 California?

19 A. No, it doesn't because it is with regard  
20 to shipments, not with regard to retailer. This is R.  
21 J. Reynolds' shipment to distributors in California,  
22 not the distributors to retail connections.

23 Q. Sir, with respect to E-mail, before the  
24 implementation of the Enterprise LAN to which you  
25 testified, could employees of R. J. Reynolds Tobacco

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1 Company use electronic mail to communicate with anyone  
2 else at R. J. Reynolds Tobacco Company?

3 A. Yes, they could, but it was very, very  
4 limited in its functionality and really in its use  
5 because it was not user friendly.

6 Q. Was it the implementation of the  
7 Enterprise LAN that facilitated the use of E-mail by  
8 most people within the company?

9 A. The implementation of the Enterprise LAN  
10 was one of the key factors in making that accessible to  
11 a broader base in combination with the E-mail software  
12 itself.

13 Q. Mr. Martin, does everyone at R. J.  
14 Reynolds Tobacco Company who has access to the calendar  
15 software use it?

16 A. No, they do not.

17 MS. BIXENSTINE: I have no further  
18 questions.

19 RE-EXAMINATION

20 BY MR. JANECEK:

21 Q. Mr. Martin, I have a few questions. With  
22 respect to your identification of 250 applications  
23 within R. J. R., were those applications -- were you  
24 identifying those applications within R. J. Reynolds  
25 Tobacco Company?

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1 A. Please repeat the company.

2 Q. You testified that there were over 250  
3 applications and/or databases that R. J. R. had  
4 available to it. Are those solely within R. J. R.'s  
5 ownership, not any affiliates?

6 A. Yes, they are.

7 Q. What would be the number of applications  
8 if you were to count all of the affiliates'  
9 applications?

10 MS. BIXENSTINE: Objection. It's beyond  
11 the scope of this deposition. He's employed by R. J.  
12 Reynolds Tobacco Company, and I don't know if he has  
13 any knowledge about the applications of the affiliates.

14 Q. You testified that all of the affiliates  
15 have different applications than R. J. R.; is that  
16 correct?

17 MS. BIXENSTINE: Objection to the form of  
18 the question.

19 A. Would you repeat the question, please?

20 Q. Ms. Bixenstine asked you if the  
21 applications or the systems of the affiliates were all  
22 separate, apart, from R. J. Reynolds Tobacco, and you  
23 testified that they were; is that correct?

24 A. That is correct.

25 Q. You also testified that no affiliate could

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1 ever have access to any database owned by R. J.

2 Reynolds; is that correct?

3 MS. BIXENSTINE: Objection.

4 A. No. I testified that no affiliate had  
5 access to R. J. Reynolds Tobacco Company's information.  
6 There's not a business requirement. Technically  
7 feasible is one thing. With regard to the business  
8 practice is another, and the business practice is  
9 because it's not required by the business necessity,  
10 people outside of R. J. Reynolds Tobacco Company and  
11 sister companies do not have access to the information  
12 we're describing.

13 Q. So if Sports Marketing Enterprises, Inc.  
14 needed access to the MARC system, it could not have  
15 such access?

16 MS. BIXENSTINE: Objection to the form of  
17 the question. Sport Marketing is now a division of R.  
18 J. Reynolds Tobacco Company.

19 A. Would you repeat?

20 Q. Prior to Sports Marketing becoming a  
21 division of R. J. Reynolds Corporation when it was  
22 Sport Marketing Enterprises, Inc., if they needed  
23 access to the marketing databases, could they get such  
24 access for business reasons?

25 A. I have considered Sports Marketing as part

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1 of the R. J. Reynolds Tobacco Company family as opposed  
2 to the corporate definition of an affiliate as we are  
3 referring to Tobacco International versus R. J. R.  
4 Nabisco versus Nabisco Brands.

5 For business reasons and in support of the  
6 Tobacco Company, is that technically feasible and  
7 doable? Yes, it is. Remember the authorization  
8 process. So consequently, that's something that would  
9 have to be put in place and would have to be  
10 accomplished before they would be granted access to  
11 that information.

12 Q. Are you aware of any instance in which  
13 such access has been granted in the past?

14 A. No. None come to mind right now.

15 Q. Is it your testimony that no such access  
16 has ever been granted in the past?

17 MS. BIXENSTINE: Objection.

18 A. No. My response was that none come to  
19 mind at this time.

20 Q. You testified about the steps taken to  
21 ensure that individuals in the MARC system are older  
22 than 18. Is it your testimony that none of the  
23 individuals identified in the MARC system could  
24 possibly be younger than 18 years of age?

25 A. Repeat that question again, please.



1 Q. Is it your testimony that no person  
2 identified in the MARC system could possibly be younger  
3 than 18 years of age?

4 A. Through the verification process, in fact,  
5 if a consumer had created a fraud by indicating that  
6 the information contained on that signature card was,  
7 in fact, true when, in fact, it was false in reality,  
8 then that is a potential occurrence.

9 Q. Are you aware that that has happened in  
10 the past?

11 MS. BIXENSTINE: Objection to the form of  
12 the question.

13 A. Could you please clarify the question?

14 Q. Are you aware of any instance in which a  
15 signature card stating that some person was 18 years or  
16 older was not, in fact, 18 years or older?

17 A. I am aware where the age verification  
18 process has identified that the ages were in incorrect.  
19 I am not aware of where anyone was, in fact, identified  
20 as and verified that it was under 18. If, in fact,  
21 that does occur or would occur, then that would be  
22 taken care of.

23 I'm just not aware of all the transactions  
24 that occur. The mechanism to prevent that and to  
25 accommodate that if it occurs is, in fact, in place

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1 within the age verification process, and that's what  
2 it's for is to verify the age.

3 Q. Mr. Martin, you earlier testified that  
4 Reynolds keeps absolutely no information on the market  
5 share of individuals who purchase Camel cigarette that  
6 are younger than 18 years of age. Do you recall that?

7 MS. BIXENSTINE: Objection to the form of  
8 the question.

9 A. No, I do not recall that.

10 Q. Are you aware of whether Reynolds keeps  
11 information, any information, on the market share of  
12 individuals who purchase Camel cigarettes who are  
13 younger than 18 years of age?

14 A. No, I am not aware of any information.

15 Q. Would it surprise you to learn that R. J.  
16 Reynolds through discovery has produced documents  
17 identifying market segments of individuals who purchase  
18 Camel cigarettes who are younger than 18 years of age?

19 A. I am not aware of every piece of  
20 information that is within R. J. Reynolds Tobacco  
21 Company. That is a fact. And I was not aware if that  
22 had occurred until you just stated that.

23 Q. Would it surprise you to know that such  
24 documents have been produced?

25 MS. BIXENSTINE: Objection. Asked and

1 answered.

2 A. Repeat the question.

3 MS. BIXENSTINE: You're surprised -- is he  
4 surprised we produced documents, if they existed?

5 MR. JANECEK: No. Is he surprised that  
6 such documents are maintained by Reynolds?

7 MS. BIXENSTINE: This is documents that  
8 show market share for under age, not market research  
9 conducted by them?

10 MR. JANECEK: Market share of underaged  
11 individuals.

12 MS. BIXENSTINE: Not market research  
13 conducted by them?

14 MR. JANECEK: Whether it's market research  
15 or not. Market share of individuals who purchased  
16 Camel cigarettes that are underaged.

17 MS. BIXENSTINE: And you're asking the  
18 question is he surprised that there's that information?

19 MR. JANECEK: Yes.

20 MS. BIXENSTINE: Objection to the  
21 relevance of this. What Mr. Martin's state of mind is  
22 is absolutely and completely irrelevant to the issues  
23 in this lawsuit.

24 A. That's a difficult question to answer. It  
25 is more complex than a yes or no. Not knowing what the

1 information you are referencing -- I have no basis to  
2 be surprised or not surprised by that. I accepted what  
3 you had said. I think that is more complicated than a  
4 yes or no question.

5 I stated I was not aware of any  
6 information with regard to the subject that you're  
7 discussing, and I am not aware of every bit of  
8 information that is embedded within R. J. Reynolds  
9 Tobacco Company that is there.

10 Q. To the best of your knowledge, where would  
11 such information be located if not in the I.R.  
12 department?

13 MS. BIXENSTINE: Objection. Asked and  
14 answered, and this is beyond the scope of redirect.

15 A. Earlier when a similar question was asked,  
16 I responded to the best of my knowledge that that  
17 sounded as if it were a marketing question and that  
18 would be the potential area where such information  
19 clarification from your perspective could occur.

20 MR. JANECEK: I have no further questions.

21 MS. BIXENSTINE: Mr. Martin will exercise  
22 his right to review the transcript and sign it.

23 (Whereupon, at 6:30 p.m., the  
24 deposition of MARVIN RAY MARTIN was  
25 adjourned.)

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STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

I, MARVIN RAY MARTIN, hereby certify under  
penalty of perjury under the laws of the State of North  
Carolina that the foregoing is true and correct.

Executed this       day of  
1996, at Winston-Salem, North Carolina.

-----  
MARVIN RAY MARTIN

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C O N F I D E N T I A L

1 STATE OF NORTH CAROLINA )

2 ) ss.

3 COUNTY OF FORSYTH )

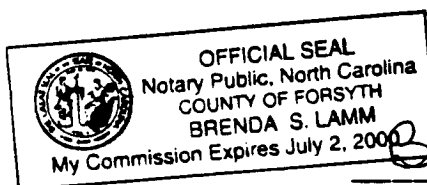
4 I, BRENDA S. LAMM, the officer before whom  
5 the foregoing deposition was taken, do hereby certify:

6 That, prior to being examined, the witness  
7 named in the foregoing deposition, to wit, MARVIN RAY  
8 MARTIN was by me duly sworn to testify the truth, the  
9 whole truth, and nothing but the truth;

10 That said deposition was taken down by me  
11 in machine shorthand at the time and place therein  
12 named, and thereafter reduced to typewriting under my  
13 direction, and the same is a true, correct, and  
14 complete transcript of said proceedings.

15 I further certify that I am not interested  
16 in the event of the action.

17 WITNESS MY HAND this 3rd day of January,  
18 1996.



19 *Brenda S. Lamm*  
20 BRENDA S. LAMM  
21 Court Reporter for  
22 the State of North Carolina

23 My commission expires July 2, 2000  
24  
25

## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	6	8	"is" → "are"
2	10	5	"is" → "are"
3	10	10	"is" → "are"
4	11	2	add "the item you are referring to." after "is"
5	11	2	delete ", that you referred to."
6	11	12	insert "throughout our Company" after "maintained"
7	11	12	insert "(g)" after "to"
8	11	19	"Right" → "I understand"
9	11	23	"Right" → "I understand"
10	12	2	"Information resources" → "Information Resources" *
11	12	3	insert "," after "design" delete "and"
12	12	4	insert "and maintenance" after "implementation"
13	12	6	"R.J." → "R.J. Reynolds" *
14	14	23	delete "and"
15	15	18	"of" → "involving"
16	15	18	insert "new" after "both"
17	16	1	"Borden" → "Boyden"
18	16	4	insert "the field of" after "in"
19	16	6	insert "some" after "took" and delete "in the course"
20	16	6	insert "level" after "graduate" and "did" after "but"
21	16	7	insert "receive" after "not"
22	16	10	insert "users in engineering" after "related"
23	17	9	"of" → "about"
24	17	13	delete "called" after "is"
25	17	13	add "a B.S. in" prior to "Engineering"

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\*This change should be made throughout the transcript.

# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	17	25	"types," → "types." delete "and"
2	18	1	"are" → "range"
3	18	1	insert "those on" after "from"
4	18	2	insert "of operation" after "overviews"
5	18	3	"of" → "in"
6	18	8	"have" → "am"
7	18	8	"knowledge" → "knowledgeable"
8	18	21	insert ";" after "multi-vendor" "mainframe" → "midrange"
9	18	21	delete "and"
10	18	22	insert "computer" after "personal"
11	18	22	"PC" → "(PC)" "computer" → "computing"
12	19	2	"digital equipment" → "Digital Equipment Corporation"
13	19	3	"digital equipment" → "DEC"
14	19	8	insert "OS/2" after "Novell"
15	19	17	"multi-vendors." → "multi-vendor environment"
16	19	20	insert "system" after "Wang"
17	20	4	insert "manufacturer's equipment" after "different"
18	20	5	insert "we are a" after "said"
19	20	5	"units" → "environment." delete "and"
20	20	9	insert "understand"
21	20	18	insert "question" after "complex"
22	20	24	insert "as appropriate" after "connections"
23	21	10	insert "the" after "in"
24	21	11	"programs" → "of data and programs"
25	21	14	"our" → "the"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	21	15	delete "some"
2	21	17	"Adabase" → ADABAS
3	21	20	"Adabase" → ADABAS
4	21	22	"Mail" → "Mail,"
5	22	3	"the other" → "another"
6	22	15	"that" → "it"
7	22	17	delete "would"
8	22	18	dumb terminal in " "
9	22	19	"personal or professional" → "personal/professional"
10	22	25	"They" → "calendar'ing and scheduling"
11	23	1	insert "terminals" after "those"
12	23	2	"could" → "maybe able to"
13	23	2	"those" → "it"
14	23	16	"digital" → "Digital"
15	23	16	"and the" → "or"
16	24	8	insert "clarify the question"
17	24	17	"what" → "programs"
18	25	1	"software" → "software."
19	25	2	"that" → "One"
20	25	3	insert "another is" after "and"
21	25	4	"engineering" → "the Engineering Department"
22	25	8	insert "is LAN based" after "Project"
23	25	20	"list" → "large number"
24	25	20	"that is utilized" → "packages that are utilized"
25	25	21	insert "all of" after "name"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	25	21	"majors" → "major ones"
2	25	22	insert "standpoint" after "support"
3	25	23	insert "functions" after "business"
4	26	5	"Referring" → "I am referring"
5	26	5	"that" → "as"
6	27	2	"are" → "is"
7	27	3	"are" → "is"
8	27	4	"type" → "type;"
9	29	10	"technical support" → "Technical Support Service"
10	29	13	"Customer information systems and marketing
11			→ "Customer Information and Marketing Systems"
12	29	15	"sales" → "Sales"
13	29	16	"systems" → "Systems"
14	29	18	"administrative" → "Administrative"
15	29	19	"financial services" → "Financial Services"
16	29	24	"the putting in place" → "establishing"
17	29	25	"Our" → "the"
18	30	1	delete "our major"
19	30	1	"resources" → "Resources."
20	30	4	"leaf systems" → "Leaf Systems"
21	30	5	"packaging systems" → "Packaging Systems"
22	30	8	"manufacturing" → "Manufacturing"
23	30	9	"systems" to "Systems"
24	30	15	"services" to "Services"
25	31	13	insert "sure I understand." after "not"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	31	20	"arc" → "is"
2	33	20	delete "providing that and"
3	35	24	delete "currently"
4	36	1	delete "somewhat"
5	36	5	insert commas before and after "as an example"
6	36	5	"that" → "the technology environment"
7	38	8	"that" → "the"
8	39	11	"driver" → "drivers"
9	39	17	"install" → "overall"
10	39	17	"capacity" → "capacity."
11	39	17	"to" → "To"
12	40	7	"networked" → "networked."
13	40	7	"with" → "With"
14	40	8	"local area network" → "Local Area Network"
15	40	13	delete the second "I"
16	40	17	"that" → "When"
17	40	20	"focused on" → "a focus"
18	40	24	delete first "early"
19	40	24	"began" → "with"
20	41	6	delete first "I do not"
21	41	6	add "recall" after "not"
22	47	14	add "that" after "tool"
23	47	14	add "important and its" after "is"
24	49	20	add "system" after "other"
25	49	22	"the other" → "another factor"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	49	22	add "issues" after "technology"
2	49	23	add "even" after first "to"
3	49	25	"sales" → "Sales"
4	50	1	"department" → "Department"
5	50	15	"everyone" → "everyone's level".
6			"sales" → "Sales"
7	50	16	"that" → "access"; "department" → "Department"
8	50	19	"sales" → "Sales"
9	50	20	"department" → "Department"
10	51	21	insert "job" after "Their"
11	51	22	"to" → "for"
12	51	24	"sales" → "Sales"
13	51	25	"do," → "do."
14	51	25	"and part" → "Part"
15	52	4	"at different points" → "to the different
16			individuals"
17	52	5	"that" → "such functionality"
18	52	5	"and its" → "It's"
19	52	6	delete "the"
20	52	8	"they're" → "the employees are"
21	52	17	12:47 → 11:47
22	53	3	delete "they"
23	53	6	"requires positions" → "require workstations"
24	53	22	"PC's, terminals" → "PC's. Terminals"
25	53	23	delete "that"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	53	25	"appropriate." → "appropriately complete a task"
2	56	4	"they" → "employees"
3	56	5	"of" → "—"
4	56	5	"hired," → "hired."
5	56	5	"and its" → "It's"
6	56	23	insert "has terminals." after "that"
7	56	24	"there are" → "are there"
8	57	3	after "has", "one" → "a terminal"
9	57	11	"collect" → "collect,"
10	57	12	"aspect to" → "aspect, and"
11	57	22	insert "repeat the question." after "you"
12	58	10	"individuals" → "individuals' "
13	58	11	"They" → "Passwords"
14	58	12	delete "the" after "of"
15	58	13	"password is with regard to" → "passwording is specific."
16	58	13	"each" → "Each"
17	58	15	"property" → "property."
18	58	15	"and" → "It's"
19	59	3	"reset" → "reset."
20	59	3	second "that" → "such action"
21	59	4	"and" → " , "
22	59	23	"personnel" → "Personnel" both places
23	60	1	"of those" → "the access and password"
24	61	9	"capabilities" → "capabilities,"
25	61	9	"has" → "has,"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	61	11	"digital" → "Digital"
2	61	14	"it would be" → "is"
3	61	15	"form" → "form."
4	61	16	"that" → "The form"
5	61	16	insert "to the data owner" after "relationship"
6	61	17	delete "for the"
7	61	17	comma before and after "business need"
8	61	22	delete "is"
9	61	25	"that is there" → "where they're assigned"
10	62	2	"in" → ", in"
11	62	3	"general" → "general,"
12	62	4	"point" → "point,"
13	62	6	"central supply" → "Central Supply."
14	62	6	"where" → "There"
15	62	7	"their" → "share"
16	62	7	delete "is"
17	62	8	"get" → "receive"
18	62	8	"orders" → "orders."
19	62	8	"and they" → "clerks"
20	62	8	insert "Common" after "have"
21	62	10	"that" → "access"
22	62	11	second "that" → ", each"
23	62	12	delete "are"
24	62	13	"those" → "access"
25	62	18	delete "that is not"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	63	21	"that is there" → "supported"
2	63	22	"those" → "access"
3	64	2	"systems" → "systems."
4	64	2	"which" → "There"
5	64	3	delete "on"
6	64	7	"job," → "job, and"
7	64	8	"that," → "what's necessary."
8	64	8	"and in" → "In"
9	64	25	"It" → "complete listings of all individuals"
10	65	3	"It" → "The program"
11	65	4	"it." → "E-mail."
12	65	5	"it" → "the program"
13	65	8	delete "business in"
14	67	6	"they're" → "requests are"
15	67	9	"that," → "access,"
16	67	10	"associated with that." → "; both are required."
17	67	10	"They" → "Individuals"
18	67	19	"they" → "security individuals"
19	68	7	"that." → "compiling a list."
20	70	8	"simply" → "simple and"
21	70	21	"that" → "back up"
22	70	24	"PC" → "PC's"
23	72	16	"storage" → "storage,"
24	72	17	"and that's direct access storage device"
25			→ "(that's Direct Access Storage Device)"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	72	24	"depending" → "depend"
2	72	25	"depending" → "depend"
3	72	25	"media," → "media."
4	72	25	"that could" → "It could"
5	72	25	insert "backups" before "are"
6	73	1	delete "and" before "basically"
7	73	2	insert "process" after "on-line"
8	73	3	"I mean, that" → "That"
9	73	12	"place. What was" → "place -"
10	75	11	"you would have" → "Causes"
11	75	13	"business" → "business."
12	75	13	"so that once" → "Once"
13	75	17	Comma before "as"
14	75	18	Comma after "failure"
15	75	18	"that you would lose" → "Causing the loss of"
16	75	19	insert "Computing" before "resources"
17	75	20	delete "and that way"
18	75	21	insert "procedures are" after "retention"
19	75	21	delete "is"
20	75	24	"information." → "Information Resources"
21	75	25	"would" → "could"
22	78	12	"then its served" → "then it's served"
23	78	16	"they" → "it"
24	78	25	"rewe of" → "reusing"
25	82	14	Comma before "and" and after "three"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	82	19	Comma before "such"
2	82	20	"have," → "have all information,"
3	82	21	"retained" → "retain"
4	82	24	Comma before and after "in essence"
5	83	2	"Ones," → "ones."
6	83	2	"and then even if" → "If"
7	83	3	"it's" → "retention is"
8	83	3	"endpoint" → "standpoint."
9	83	3	"again" → "again,"
10	83	4	"end point" → "standpoint"
11	84	12	"storage" → "storage,"
12	84	12	"media" → "media,"
13	84	24	delete "one"
14	85	12	"type" → "oriented"
15	87	14	"that" → "a file"
16	88	6	"retained." → "retained"
17	88	6	delete "But"
18	88	8	"occur," → "occur."
19	88	8	"and sometimes" → "Sometimes this is"
20	88	9	insert "that" after "information"
21	88	14	"of that" → "data"
22	88	17	delete "a want of"
23	88	17	"requirements" → "requirement"
24	92	20	"information" → "situation"
25	93	22	"and" → "for"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	94	6	delete "is that we"
2	94	7	delete "do"
3	94	7	"as opposed" → "as compared"
4	94	10	"That is done" → "Such data storage is"
5	94	11	"recovery in" → "recovery. In"
6	94	12	"occur or does occur" → "occur, does occur and"
7	94	14	"information that" → "information. Such information"
8	94	15	"earlier" → "earlier."
9	94	16	"simply because that's" → "Simply,"
10	94	17	delete "daily -- there's over --"
11	94	17	"21,000" → "2100"
12	94	18	"are" → "being"
13	94	20	"it would" → "problems"
14	94	21	"that does" → "problems do"
15	94	22	"We do the" → "we"
16	94	23	"backup of" → "backup"
17	94	23	"of the" → "why the"
18	94	24	"backup; and it" → "backup. Recovery"
19	94	24	delete "to"
20	94	25	insert commas before and after "because we"
21			do that daily"
22	95	12	insert "somewhere else" after "use"
23	95	14	"Bringing" → "Recovering"
24	95	14	"of" → "for"
25	95	15	"and that's usually" → "will normally involve"
			an "

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	95	16	"One of the" → "one of or"
2	95	17	insert "restoring"
3	96	21	insert "sure about" after "not"
4	97	1	"to" → "For it to"
5	97	2	"not" → "not done"
6	97	5	"on is" → "on"
7	98	23	"does" → "do"
8	100	6	"locations" → "location"
9	100	15	"is" → "being"
10	100	21	"if" → "unless"
11	100	21	"messages" → "message"
12	100	21	"to" → "or"
13	100	22	insert "all" after "see"
14	100	23	"returned" → "responded"
15	101	13	"the" → "our"
16	101	16	"party" → "party we are discussing"
17	104	8	insert "is" before within
18	104	8	insert "capability" after "that"
19	104	9	"people" → "or for every person"
20	104	9	"the" → "for all"
21	104	10	"true but I" → "true. I"
22	104	11	"that throughout the" → "e-mail is all inclusive of"
23			
24	104	12	delete "I mean"
25	105	25	"is in that" → "contains the"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	106	7	"occurs of" → "occurs,"
2	106	12	commas before "if" and after "systems"
3	106	24	second "in" → "and"
4	106	25	delete "of"
5	107	1	insert "people" after "appropriate"
6	107	1	"it" → "re configuring"
7	108	22	"did" → "actually designed"
8	108	23	"those" → "software"
9	108	24	"utilizations" → "for utilization"
10	109	21	"owners" → "owners,"
11	109	22	"That's when" → "That is the basis
12			on which"
13	109	23	"And that" → "That"
14	109	25	"which would be where" → "who"
15	110	1	"that database is maintained" →
16			"maintain the database supporting the
17			application, the request is reviewed and
18			would be granted as appropriate."
19	110	1	delete "if you would -- of why"
20	110	2	delete entire line 2
21	110	3	delete entire line 3
22	110	11	"goes through," → "is completed,"
23	110	11	delete "then"
24	110	12	"they are, in fact," → "the requestor is"
25	110	12	"to" → "or"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	110	24	"stated about E-mail systems being"
2			⇒ discussed connections"
3	110	24	delete " -- you "
4	110	25	delete "can't -- "
5	111	1	"do that" → "communicate"
6	111	4	"company" → "company."
7	111	4	"would grant" → "would need to grant"
8	111	4	delete "access saying"
9	111	5	delete "it's okay for us to pass. You get"
10	111	8	"organization" → "organization."
11	111	9	"and" → "Data owners"
12	111	10	"Whose primary function it is to use that
13			particular" → "they use to support their
14			primary job function."
15	111	11	delete "system."
16	111	12	"Finance people and Various" → "different"
17	111	17	"something that is" → "in a different department"
18	111	18	delete "different"
19	112	19	delete "that"
20	112	22	"that" → "that database"
21	113	2	"the" → "their"
22	113	3	"do" → "in"
23	113	4	" , to provide information, " → (to provide
24			information)
25	113	5	"electronically, and that" → "electronically.
			That"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	113	6	"examples that, Navy" → "examples, U.S. Navy"
2	113	8	"get to" → "access"
3	115	9	"sales" → "Sales"
4	115	20	"that track the sales that" → "like track"
5			Our sales, that is why"
6	115	21	"sales" → "Sales"
7	115	21	"it does" → "these databases do"
8	115	22	delete "every--or databases for"
9	116	8	"objection" → "object"
10	116	11	"its" → "their"
11	116	24	"cigarettes" → "cigarettes,"
12	116	25	"of who sells" → "we sell"
13	118	9	"Marlin" → "Marlin,"
14	118	11	"event" → "sense"
15	118	11	"from the distributor" → "for the distributor."
16	118	11	"in the event that one" → "one"
17	119	20	"sales department," → "Sales Department."
18	119	20	"is geographically, and they," → "They"
19	119	25	"stores, their" → "stores or their"
20	119	25	delete "or"
21	120	1	"from" → "for"
22	120	15	"Is it" → "It is"
23	121	22	commas after "itself" and "database"
24	123	2	"viewing, and the" → "viewing. The"
25	123	3	delete "but it's --"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	123	7	"to inquiry" → "to an inquiry"
2	123	10	delete "On-line"
3	123	11	"Viewing -- if" → "If"
4	123	14	"that" → "the original"
5	123	21	delete "of those"
6	123	22	delete "that"
7	123	23	delete "is involved,"
8	123	24	insert "long term" after "pertinent"
9	124	1	"view that" → "create that some view"
10	124	3	delete "that"
11	124	6	delete "we store"
12	124	7	"in home" → "in house on"
13	124	13	"that" → "the need"
14	125	4	"was" → "is"
15	125	4	"it's" → "tape is"
16	125	12	delete "it is not" :
17	125	15	"into" → "onto"
18	128	18	"operates that" → "operates,"
19	128	19	"and all" → "and in all"
20	128	22	"An example would be" → "as an example,"
21	128	25	delete "or are"
22	129	3	"improve which" → "improve. It"
23	130	1	delete "and"
24	130	24	"sales" → "Sales"
25	130	25	"information system" → "Information System"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	131	5	insert "accounts" after "active"
2	132	1	Commas before "or" and before "call"
3	132	23	"way. I" → "way as I"
4	132	24	"meant selling -- J.R." → "meant -- R.J."
5	134	4	"sales information system" → "Sales Information System"
6			
7	134	6	"will be" → "were"
8	134	6	delete "on"
9	135	10	"documents in that it's" → "documents. Its"
10	136	14	insert "places" after "several"
11	137	7	"would" → "discussed"
12	139	23	"they are" → "there are"
13	140	11	delete "within"
14	140	12	Commas before "in" and "identify"
15	140	13	delete ", in fact,"
16	140	15	"stores and, etc. and" → "stores etc."
17	140	15	"they" → "They"
18	140	25	delete ", in fact,"
19	141	7	"It was-- the" → "The"
20	142	8	insert "in 1994 was different" after "process"
21	142	11	"as" → "is"
22	143	16	"different than it" → "different. It"
23	144	12	comma before "where"
24	146	14	"It is an" → "An"
25	146	15	"as" → "is"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	148	19	delete "with --"
2	157	13	delete "could"
3	157	23	"within Marlin is" → "is Marlin as"
4	157	25	delete "it's a different"
5	158	7	delete "I am --"
6	162	22	"gave" → "given"
7	162	23	"and I didn't" → "and if I did"
8	163	5	"that" → "of different calculations"
9	163	6	insert "about earlier"
10	163	6	delete "where"
11	163	8	"receive" → "receive."
12	163	8	"which, in fact," → "It"
13	164	22	delete "during this time frame"
14	164	24	delete "in the state of -- the distributor was"
15	167	11	insert "time dependent after" four
16	167	12	"separate" → "separately"
17	167	12	delete "dependent"
18	167	12	"even-separate" → "regardless of the situation"
19			
20	167	12	"it" → "information"
21	167	14	delete line 14
22	167	15	"categories or each" → "Each"
23	167	17	delete "if you will, is"
24	167	18	"documents and that's" → "documents. That's"
25	167	22	commas after "DASD" and "real time"

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## ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	167	22	"take Storage" → "tape storage,"
2	167	23	"for the" → "is required."
3	168	15	"such for" → "such as for"
4	171	13	Comma after "backup"
5	171	14	Comma after "of"
6	171	20	"that" → "information"
7	171	21	"Copy" → "Copy and"
8	171	22	insert "form" after "common"
9	172	5	insert "like" after "not"
10	172	6	"is that" → "that is"
11	172	7	insert "networked" after "other"
12	173	5	"basis where it" → "basis. Where work"
13	173	12	insert "what" after "in"
14	173	23	"digital" → "Digital"
15	173	25	insert "level" after "local"
16	183	18	"Johnson" → "Johnston"
17	188	6	"financing" → "finance and"
18	190	10	delete "that E-mail"
19	194	19	"that" → "E-mail"
20	194	21	"system" → "systems"
21	194	23	"starts that" → "starts the process"
22	195	1	"be the" → "have as the"
23	199	24	"With" → "with."
24	199	25	"applications" → "applications,"
25	204	15	"sellers sold" → "sell or sold"

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# ERRATA SHEET

	PAGE	LINE	CHANGE/CORRECTION
1	208	20	"retailer" → "retailers"
2	208	22	"connections" → "shipments"
3	210	1	"company" → "question"
4	211	17	"sport" → "Sports"
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**1**

1 7:2, 7; 127:11; 148:3;  
163:13; 164:2, 15  
1(a 127:14; 135:4  
1(c 137:25  
1(d 138:20  
1(e 145:14  
1(f 158:2  
1(g 158:19  
1(h 160:25  
1(i 162:1  
1(j 162:1  
10 117:11, 22; 145:21;  
146:11, 24; 147:20, 22;  
148:3; 161:3; 186:11, 11;  
207:11, 23; 208:15  
10:05 6:2  
11 147:3, 23; 148:4;  
149:5; 161:3  
11:25 42:23  
11:39 52:17  
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